

Ethical Dilemmas Experienced by Australian Rehabilitation Counsellors

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ABSTRACT

Private sector rehabilitation counsellors operate in a dynamic and complex environment in which their decisions are influenced by several stakeholder interests including workers' compensation authority regulators, scheme appointed agents, employers, and injured workers. The potentially competing interests of all parties often challenge the values and professional responsibilities of rehabilitation counsellors. The current study aimed to address the gap identified in the literature concerning ethical dilemmas unique to private sector rehabilitation counselling in Australia. A qualitative methodology was adopted to examine: a) the types of ethical dilemmas most encountered by rehabilitation counsellors working in the context of private sector settings; and b) rehabilitation counsellors' preferred methods for resolving ethical dilemmas in this context. Findings revealed that rehabilitation counsellors interviewed had experienced an array of ethical dilemmas in their practice, reflecting some of the inherent challenges in Australia's private rehabilitation sector. The findings have implications for the ethics education and professional development of rehabilitation counsellors, and provide a foundation for future ethics research in rehabilitation counselling.

Key Words: Rehabilitation Counselling, Ethics, Insurance-based Rehabilitation, Stakeholder, Ethical Decision Making.

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Introduction

Rehabilitation counselling is a client-centered allied health profession, concerned with assisting individuals with disabilities and injuries in adapting to their environments and working towards full participation in all aspects of society, particularly work (Leahy & Szymanski, 1995). To uphold ethical practice standards, rehabilitation counsellors must balance a range of factors, including their commitment to their clients and personal and professional values, with the values and goals of external stakeholders, multidisciplinary colleagues and their private rehabilitation provider employer (Cartwright & Hartley, 2015; Herlihy & Dufrene, 2011). Rehabilitation counsellors must also recognize and overcome organizational barriers to ensure clients are afforded a service, which is ethically appropriate and capable of upholding the reputation of their profession (Cottone & Tarvydas, 2003). While the main purpose of private sector rehabilitation is to provide specialized workplace rehabilitation services to support injured workers in their recovery and return to work (HWCA, 2015), the motivations of many rehabilitation counsellors working within the workers' compensation system differ from the desired objectives set out by workers' compensation schemes (Kendall & Clapton, 2006). The requirement to continually balance competing and differing perspectives when making important practice decisions has been found to create significant workplace challenges and ethical concerns for rehabilitation counsellors (Berens & Weed, 2001; Kendall & Clapton, 2006; Lane, Shaw, Young, & Bourgeois, 2012; Millard &

Rubin, 2006; Tarvydas & Barros-Bailey, 2010; Wright, Vaughn, & Taylor, 1998).

The trend for government agencies to outsource human welfare related services (Matthews, Buys, Crocker, & Degeneffe, 2007; Webster & Harding, 2000) combined with the increased use of occupational rehabilitation as a means of curtailing workers' compensation scheme costs, has seen insurance-based rehabilitation prosper in Australia (Kendall, Muenchberger, & Clapton, 2007; Kenny, 1998; Purse, 2013). Rehabilitation counsellors working in workers' compensation settings are required to respond to, and manage, multiple processes while achieving return to work and mutually acceptable outcomes quickly to contain costs (Kenny, 1998). The task of working across organizational systems that are frequently in conflict due to the vested interests of various stakeholders (Roberts-Yates, 2003) necessitates an ability to identify problems, acknowledge concerns and resolve issues. Indeed, there is evidence that suggests the adversarial nature of insurance-based rehabilitation, fails to support the traditional ethos of human service work (Kendall, Buys, & Lerner, 2000; Lane et al., 2012; Murphy, 2003). Maintaining one's professional and ethical integrity in an environment, which is shaped by multidisciplinary cooperation, or lack thereof, requires a strong commitment to client welfare and the ability to recognize both the prevalence and subtleties of ethical dilemmas within the practice context (Cottone & Tarvydas, 2003).

Ethical dilemmas arise when rehabilitation counsellors encounter circumstances in which there are conflicting or competing ethical principles that apply, or there is a conflict between one's personal and professional values (Cottone & Tarvydas, 2003). Since specific ethical solutions are frequently not found in ethical codes of conduct, the process of identifying the most appropriate course of action to an ethical dilemma is difficult (Cartwright & Hartley, 2015; Coduti & Luse, 2015; Tarvydas & Cottone, 2000). To further complicate matters, although principles are considered equal, in reality, practitioners often need to prioritise one over the other. In such circumstances, higher order reasoning becomes essential to problem-solving. Barnett, Behnke, Rosenthal, and Koocher (2007) argue that the general principles of ethical codes can assist practitioners in a process of ethical decision-making that goes beyond merely looking for a solution to a dilemma in the Code itself.

In its current form, the profession of rehabilitation counselling is self-regulated, which means the governance of the profession is aspirational rather than legally mandated. In terms of ethical functioning, aspirational codes encourage practitioners to reflect on their social obligations, values, client welfare issues, and the effects of their actions on the profession as a whole; whereas mandatory ethical codes compel individuals to focus on compliance with the law and meeting minimum standards for practice (Cottone & Tarvydas, 2016). The ethical Codes that guide the rehabilitation counselling profession are largely governed by normative ethical theories (Chan, Bishop, Chronister, Lee, & Chiu, 2017) and the bioethical principles of autonomy, beneficence, non-maleficence, justice and fidelity (Australian Society of Rehabilitation Counsellors, 2014; Rehabilitation Counselling Association of Australasia, 2013). Ultimately these principles guide practitioners in ethical decision-making by stating they must demonstrate respect for their clients, do good, prevent harm, be fair, and keep promises to their clients (Cottone & Tarvydas, 2003).

Despite the presence of Ethical Codes, Tarvydas, Leahy, Saunders, Chan, Theilsen, and Murray (2001) found that rehabilitation counsellors are more likely to act on their personal beliefs about what is ethical, rather than critically reflect on circumstances or consult a code of ethics. Furthermore, studies suggest rehabilitation counsellors' ethical competence and therefore, behavior is highly variable and dependent upon rehabilitation counsellors' personal biases or assumptions about themselves and others (Houser & Thoma, 2013). Alternatively, they are dependent on the expectations of influential stakeholders in private sector rehabilitation (Berens & Weed, 2001). For example, ethical codes associated with the field of rehabilitation counselling commonly and unambiguously state that the primary obligation of

rehabilitation counsellors is to the client (Cottone & Tarvydas, 2003; RCAA, 2013). However, rehabilitation counsellors' personal values and professional responsibilities may conflict with the espoused decision-making and actions influenced by systems obligations (Cartwright & Hartley, 2015; Lane et al., 2012; Randall, Buys, & McLennan, 2016).

In order to maintain ethical practice, rehabilitation counsellors must possess a high level of metacognition (McMahon & Good, 2016) and ethical competence - the ability to apprehend ethical situations and to recognize their responsibilities (Kalvemark-Sporrong, Arnetz, Hansson, Westerholm & Hoglund, 2007). However, some of the ethical conflicts rehabilitation counsellors encounter in practice are either not in their awareness or not identified as ethical dilemmas. In a study examining rehabilitation counsellors' abilities to identify or discriminate between ethical dilemmas, Tarvydas et al. (2001) found that out of 104 specified behaviors, 17 'controversial' behaviors were endorsed as ethical by 40% to 60% of the 658 respondents. These 'controversial' behaviors included: a) allowing the level of disability to determine the client's degree of autonomy, b) being sexually attracted to a client, c) accepting only female or only male clients, and d) refusing to allow clients access to their records. Notwithstanding the limitations in the utility of the study's scale across practice settings, the findings provide a conduit for determining areas of consensus and differences in ethical judgments, which may impact clients.

Although studies concerning the ethical challenges facing rehabilitation counsellors exist and rehabilitation counselling research has succeeded in amassing a base of knowledge specific to private sector rehabilitation (Beveridge, Garcia, & Siblo, 2015; Kontosh, 2000; Lane et al., 2012; Tarvydas & Barros-Bailey, 2010; Wright et al., 1998), there is scant research regarding the ethical challenges faced by rehabilitation counsellors working in Australian private provider settings, and the impact of these challenges on practice. Kenny (1995) and Roberts-Yates (2003) have perhaps come closest to exploring the subjective experiences of rehabilitation professionals, noting that conflicts of interest, conflicts between stakeholders, and the attitudes of injured workers, pose a threat to rehabilitation services and outcomes.

Since private sector rehabilitation has become the primary source of employment for Australian rehabilitation counsellors, it is important to further understand the ethical challenges unique to this context, as well as the degree to which practitioners differ in their ability to either recognise or resolve ethical dilemmas, especially since their decisions and ethical behaviour have a direct and critical impact on the welfare of clients. Therefore, the purpose of this research is to examine the ethical challenges encountered by Australian rehabilitation counsellors, including potential work culture influences on their decision-making, and preferred methods for resolving ethical dilemmas.

Methods

Recruitment

Ethical approval for the current project was obtained from the Griffith University Human Research Ethics Committee, based on conformity with the National Statement on Ethical Conduct in Human Research (National Health and Medical Research Council, 2015). Participants in this study were required to meet the following screening criteria: a) a minimum employment period of two years in private sector rehabilitation and b) a tertiary qualification in rehabilitation counselling. Participants were recruited by way of an invitation e-mail forwarded by the Australian Society of Rehabilitation Counsellors (ASORC) and the Rehabilitation Counselling Association of Australasia (RCAA) to their full members.

Sample

According to Emmel (2013) the recommended sample size to achieve data saturation in qualitative interviews is four to five. Given participants possessed a high level of knowledge and expertise about the subject, a sample size of five was deemed appropriate for the study. All participants were tertiary qualified rehabilitation counsellors. One participant held a graduate diploma; two held bachelor degrees; and two held Masters degrees. The cohort comprised of four females and one male. Participants were aged between 28 and 56, with a median age of 43. Private sector experience ranged from 3 to 21 years, with a mean of 9.4 years of practice experience in private sector rehabilitation.

Data collection and Analysis

All data collected for this study was obtained via semi-structured telephone interviews. To enable transcription, all interviews were audio recorded and transcribed verbatim, and reviewed for accuracy by comparing the transcripts and audio recordings. The transcription process enabled the researcher to develop familiarity with the data and begin the initial phase of data analysis. The data collected was not expected to comply with the researchers' preconceptions and analysis was data-driven. As outlined by Braun and Clarke (2006), theme development was a manual six-step process. After accurately transcribing audio data into written records, the researcher read the transcripts in their entirety; color coding emergent themes and taking notes of dominant patterns within the transcripts. The transcripts were checked to make sure the themes mirrored the primary source material, that is, the participants' actual words. Responses that were deemed most relevant were highlighted (first-level coding). By noting similarities and repetition in the data, the researcher was able to identify salient themes and reflect on them from the perspective of the participants, a technique outlined by Ryan and Bernard (2003). Overall, to enhance the legitimacy of the study, the researcher incorporated strategies likely to enhance its trustworthiness, including participant checking of the transcripts and peer-checking of the identified themes among the research team.

Findings

Four significant themes were uncovered in the in-depth interview data collected from the five rehabilitation counsellors in this study. These were 'conflict', 'power', 'cost containment', and consultation'. These themes often appeared interdependent throughout the analysis, and it was determined that themes were underpinned by a central theme of 'relationships'. For example, some themes related to the *types* of relationships rehabilitation counsellors participate in during the course of their work (e.g., communications with medical personnel and regulators), others to *processes* associated with relationships (e.g., agreements between insurers and private rehabilitation providers), while other themes related to participants' *emotional reactions* to relationships with stakeholders (e.g., frustration, defeat, stress). Given every action, decision, and interaction occurring in private sector rehabilitation is contingent upon the motivations and objectives of external stakeholders, the centrality of 'relationships' to ethical practice was a salient feature of the ethical conflicts encountered in this context. The four themes underpinned by 'relationships' are shown in Figure 1; the sub-themes are indicated in orange.

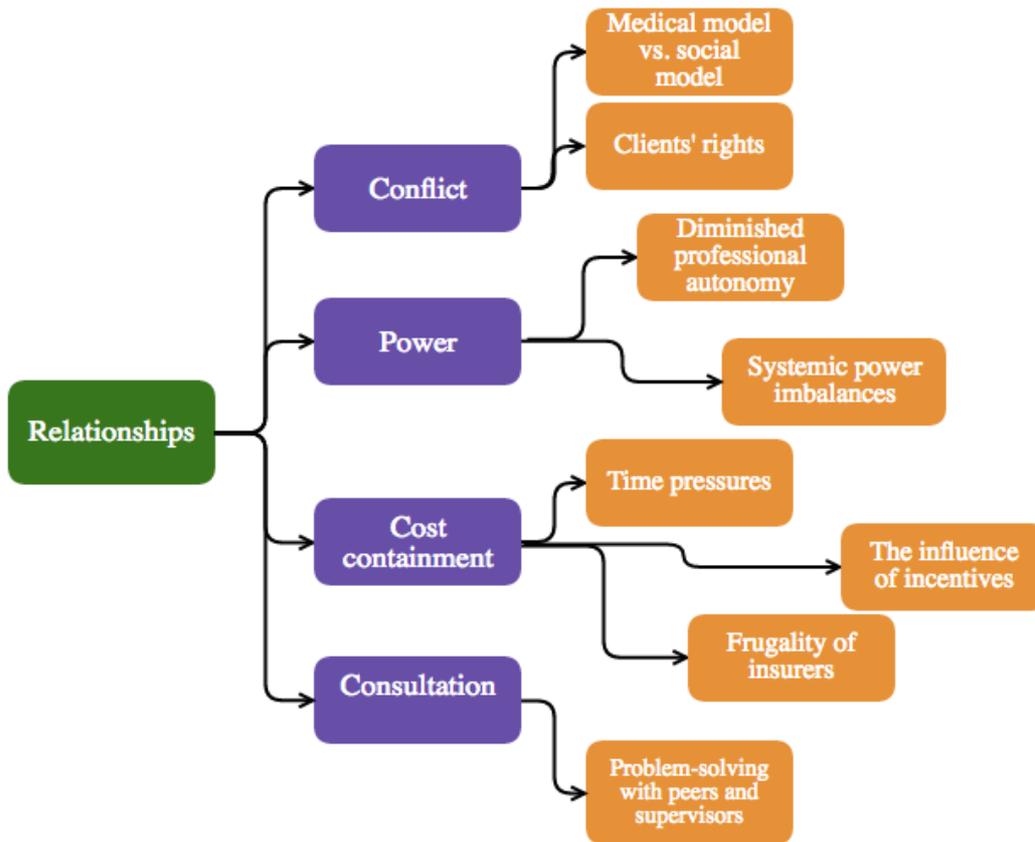


Figure 1. Four themes underpinned by the central theme ‘relationships’

Conflict

The first theme about ethical ‘conflict’, encompasses the difficulties associated with upholding ethical standards in an environment in which private sector rehabilitation practitioners are required to balance clients’ needs for services with the customers’ (e.g., the insurers) need to control costs. Likewise, the legislation that informs rehabilitation services engenders significant ethical conflict for practitioners. Participants disclosed the difficulties in balancing the competing desire to help clients versus the requirement to adhere to legislation, despite its potentially adverse effects on client welfare. For example:

The dilemma is, if you write that the client is not cooperating, then the insurer can suspend or cancel their payments. So there is a dilemma, because you can cover someone for so long, but if they’re not meeting their obligations to look for work, then you need to inform the insurer. (Participant 4)

... up until the changes [2012 NSW WorkCover amendments] you could kind of get around to do things which were in the best interests of clients...I just can’t do it now. (Participant 1)

Additionally, participants suggested insurers seldom deviate from the medical model. Three out of five participants voiced how stakeholders’ theoretical approaches towards disability impeded their ability to provide a client-focused service. As most rehabilitation counsellors are trained to act as client advocates the purpose of achieving optimal outcomes, the conflict arising from incongruous values and rehabilitation goals appears to be a key causative factor for ethical conflict experienced by the practitioners. Although the interviews

captured the ethical stress generated by having to acquiesce to legislative and business demands, it was also noted that practitioners sometimes expressed bias towards meeting regulatory requirements over being upfront with clients.

Power

This theme reflects the regime of ‘power’ that dominates insurance-based rehabilitation. Private sector rehabilitation is profoundly influenced by the different views and expectations held by stakeholders concerning rehabilitation. The unequal power relationships and their subsequent impacts on services appear pervasive. Interview data suggests the procedural constraints that preserve power imbalances have the potential to increase practitioners’ perceived loss of professional autonomy and overrule their intentions to uphold clients’ autonomy and ensure safety. Participant 1 commented:

They’re putting their needs so far in front of the client’s, it’s not funny. They keep telling me that I have to do this, do that, that we have to prove to the insurer that we’ve done this. I said, “I understand that, however, I can’t do it at this point in time. He’s just not ready to do it.”

Participant 3 added that:

...we are constantly asked to interfere in medical treatment and attend case conferences, when I don’t think that’s appropriate.

The dataset suggests rehabilitation counsellors working in this sector do have opportunities to employ an empowerment approach to services, however, it appears practitioners are sometimes forced to contend with standards of practice deemed acceptable by other stakeholders or private rehabilitation provider managers. Often, the motivations and lack of medical training demonstrated by insurance claims managers means ethical principles are forfeited. For Participant 4, the task of upholding the principles of beneficence and justice seemed impossible:

They [insurance claims managers] will have their own discussion about the claim and how it is to be managed and what they want. And, although you’ve provided your expertise, they may disagree. Now the most frustrating thing is, they don’t even listen...they don’t understand injury and disability well enough to be directing what we do.

Although the participants did not always perceive the influence of insurers negatively, there was a consensus across the cohort that rehabilitation counsellors are required to acquiesce to the demands of management and insurers or risk being viewed as ineffectual. Importantly, having to contend with standards of practice deemed acceptable by stakeholders or private rehabilitation provider managers appeared to threaten rehabilitation counsellors’ professional autonomy and create ethical conflict. Participant 1 commented:

It’s hard to explain. The company I work for has a system...even as a senior consultant, with all of my experience. I’m not allowed to make a decision. And I get told that my decisions are wrong because my decisions aren’t based on getting a quick outcome, they’re based on getting a sustainable outcome.

Cost Containment

Comments categorized under the theme ‘cost containment’ reflect the expectation for rehabilitation counsellors to act as agents of cost containment for insurance companies. The dataset suggests the business ethos underpinning insurance-based rehabilitation significantly influences stakeholder interactions. Although rehabilitation counsellors understand the importance of maintaining a viable business, four out of five participants indicated that the task of providing client-focused services simultaneous to containing costs and facilitating a quick return to work outcome, increased the likelihood of stress and ethical conflict. Additionally, the requirement for private rehabilitation providers to continually demonstrate financial efficiency to insurers appears to violate counsellors’ sense of fairness, invalidates the role and hard work of practitioners, and appears to create significant conflict and stress.

It gets a bit complicated. All the work I do, and this happened last year as well, I’d put my time in and I was asked to decrease the amount of time I spent; and I said ‘Well no, that’s the time I spent’. I was advised that by the time the invoices went out, they removed half of my time. (Participant 1)

In other instances, financial incentives or an implicit threat of lost business can potentiate conflict. Participant 4 commented on this situation, stating that:

I write reports for plaintiff lawyers...so I’m representing the client...generally the client’s do have injuries or disabilities but some of them will exaggerate them... and you’re engaged to write a report.... so... do you write a report that’s favorable to the client? Or do you say, “I can’t write a report because I can’t write anything favorable.” And that doesn’t happen very often, but the dilemma is, you’re engaged by a solicitor representing their client to write a report that’s favorable to them. And if you don’t, then that’s the last one you write for that solicitor.

The data suggests the fiscal imperatives imposed by external stakeholders have the potential to create significant ethical conflict for rehabilitation counsellors.

Consultation

The theme ‘consultation’ incorporates the main strategies used by rehabilitation counsellors to either prevent or resolve ethical dilemmas. Overall, it appears that within the context of private rehabilitation service provision, practitioners understand and value the role of peer and managerial support for resolving ethical challenges. Conversely, however, the data indicates that inadequate organizational support has implications for increased stress and burnout among practitioners. Participant 3 expressed disappointment concerning the inadequate support she received from a peak body:

I contacted [peak body], about what was going on with NSW WorkCover, and they were very unhelpful. As our peak body, I thought they could do something to represent what was happening and they just told me to contact WorkCover directly.

Participants were specifically asked whether they used ASORC's Code of Ethics or RCAA's Code of Professional Ethics for Rehabilitation Counsellors to help resolve ethical dilemmas. Although four out of five respondents reported they had read their respective Code, none of

them utilised it to assist in resolving ethical dilemmas. Participant 3 said she "studied it" during training, while Participant 4 commented, "No, I haven't read it in years." Overall, there was a consensus across the cohort that peer consultation and discussions with supervisors enable counsellors to come together and discuss individual ethical dilemmas and brainstorm intervention options. Participant 2 commented:

We pretty much go straight to our manager. Talk about what problem we're having. It's like a conversation to kind get a plan of direction.

Participant 4 commented that the context of private rehabilitation providers needs to be taken into account, stating:

"It's not so much the code of ethics, it's what is going to be the best approach from a business perspective... So there's a tradeoff."

Despite sharing common goals (e.g., successful return to work outcomes), relationships between stakeholder groups are commonly defined by conflicting values, models of rehabilitation, and power plays. The themes 'conflict', 'power', 'cost containment', and 'consultation' provide insight into how relationships experienced by rehabilitation counsellors employed in this sector are influenced by a range of factors, which create ethical dilemmas.

Discussion

The findings from this study indicate that the complicated nature of private sector rehabilitation is a major risk factor for work-related stress and ethical conflicts. The data illustrates that although rehabilitation counsellors form part of a network of professionals charged with providing rehabilitation services on behalf of insurers, the insurance industry often fails to appreciate the role of rehabilitation counsellors in protecting the welfare of clients, or to acknowledge their specialized skills and knowledge. This is similar to the findings of Buys and Kendall (1998), Lane et al. (2012), and Murphy (2003). For participants in this study, the pressure to ignore the legitimate needs of clients in order to implement financially agreeable rehabilitation plans appeared to negatively influence their ability to uphold ethical standards and provide sufficient advocacy on behalf of their clients. The expectation for practitioners to disregard the importance of beneficence and close files as soon as possible appeared to diminish participants' perceived professional autonomy, mirroring the results of a study conducted by Lane et al. (2012). Further, a perceived lack of professional support from management for handling ethical issues appeared to add to the frustrations expressed by practitioners engaged in this study.

Kendall and Clapton (2006) and Kontosh (2007) discuss the difficulty of maintaining a humanistic code of ethics in an atmosphere fueled by competition and cost containment practices. These authors point out that the business relationship between private rehabilitation providers and insurers ensures the balance of power in this context rests with the insurers. For practitioners, attempting to affect change by demanding a greater focus on clients' rights and welfare, or refusing to implement insurance claims manager goals, will likely result in losing the referrals private rehabilitation providers depend on for survival. Four out of five participants echoed this view, indicating there are some ethical challenges they can do nothing about.

Despite being aware of the ethical challenges in their practice context, all of the participants reported that the ethical Codes had no impact on their ethical decision-making behaviour. To resolve ethical dilemmas, practitioners relied almost exclusively on their own judgement and informal consultation with peers and supervisors. This is supported by previous

literature that suggests a practitioner's professional network can be an important resource for managing ethical conflict (Cartwright & Hartley, 2015; Corey, Corey, & Callanan, 2007; Cottone & Claus, 2000; Welfel, 2006). Professional connections are credited with enabling individuals to appraise situations more effectively and providing assistance during times of ethical stress (Aspinwall & Taylor, 1997). However, it is important to consider whether practitioners' individual and collective judgements can suffice when they are responsible for public welfare. Although professional experience surely builds an arsenal of knowledge and insights on which to base future decisions, concerns surrounding public welfare calls for practitioners to be well versed in the application of formal frameworks as methods of analysis and decision-making. Ethical decision-making models and ethical codes help to unmask stubborn cognitive patterns and long held personal assumptions (Aspinwall & Taylor, 1997; Cartwright & Hartley, 2015; Cottone & Claus, 2000).

Limitations

The findings of this study are limited to the perceptions of a small group of five self-selected participants. Hence, selection bias is a possibility. Some of the participants may have participated because they felt their employing agencies did not adequately support ethical standards. Alternatively, other practitioners may have felt hesitant to disclose the ethical issues they encounter in their workplace. Despite sending the invitation to participate twice, the low response rate for this study means the findings may not reflect the views of a larger cohort. However, five participants are considered adequate for this methodological approach (Emmel, 2013). Further, a person's ethical competence is critical in the identification and resolution of ethical dilemmas. This study did not account for the ethical maturity or competence of the participants. A practitioner's level of development in this area may influence his or her perception of ethical conflicts as well as the ethical culture of the workplace and wider systems.

Conclusion and Recommendations for Practice

The findings from this small qualitative study draw attention to ethical dilemmas and concerns experienced by rehabilitation counselling professionals engaged in the workers' compensation industry in Australia. Overall, the study supports the notion that important links exist between organizational culture, workplace climate, and ethical stress among practitioners. Stress associated with ethical conflict may have important implications for rehabilitation counsellors' longer-term job satisfaction and retention, and the profession as a whole. The potential loss of intellectual capital in the form of experienced practitioners may contribute to an increasingly inexperienced cohort of rehabilitation counsellors with less ethical awareness and competence working in this sector. Additionally, given the important role rehabilitation counsellors play in the provision of quality case management, the negative impact of ethical stress and burnout for rehabilitation providers is self-evident considering Australia has experienced a shortage of graduates to meet industry needs (Australian Visa Bureau, 2017). The deleterious effect of ethical stress on practitioners may require a more concentrated effort from rehabilitation educators, governing associations and private provider agencies alike.

Strong governance in this area is essential as despite the increasing demand for ethically competent practitioners, human service and health care professionals often lack crucial support, as well as the comprehensive training required for dealing with ethical dilemmas in practice (Kalvemark-Sporrong et al., 2007). This point is particularly salient given one's seminal training is regarded as highly influential in a practitioner's approach to his or her career (Corey, Cory & Callanan, 2005). It is incumbent upon governing associations and rehabilitation counselling educators alike to view ethics education as foundational to graduate training

programs. Furthermore, since ethical competence is thought to be developed in a social context (Kalvemark-Sporrong et al., 20017), ethics education should contain practical and shared learning components. Literature regarding ethics education suggests the inclusion of experiential activities in the training program may improve rehabilitation counsellors' understanding of ethical challenges and afford students opportunities to experience the ethical decision-making process before practicing in real world contexts (Corey et al., 2005; Gawthrop & Uhlemann, 1992). Further, governing associations need to consider new ways of communicating ethical Codes and helping their membership to use them appropriately.

In summary, the study found that ethical dilemmas stemming from role conflict, power imbalances, cost containment strategies and differing perspectives towards disability, present real issues for rehabilitation counsellors working in private sector rehabilitation in Australia. The findings point to the adoption of strategies to ensure both future and current practitioners are adequately prepared to meet the ethical challenges of this field. To this end, expanded research is warranted to further understand the factors that influence rehabilitation counsellors' professional behavior and decision-making, the impacts on service provision and outcomes, and the needs of practitioners in upholding their profession's values and ethical standards.

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