

Denuded by injury: Preserving evaluatees' dignity during forensic evaluation

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Forensic ethics

- Forensic ethics were added to the CRCC code of ethics in 2010. Defines:
 - Client and evaluatee rights
 - Competency and conduct
 - Case acceptance and termination
 - Fees
 - Forensic business practices

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Forensic ethics

- Forensic ethics were included in the 2007 ABVE code of ethics
 - Ethical behavior
 - Referral sources and parties
 - Professional relationships
 - Public statements/fees
 - Confidentiality
 - Assessment
 - Research activities
 - Competence

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**Roles in forensic evaluation:
Client versus evaluatee?**

- In forensic evaluation, there is no client-counselor relationship (Barros-Bailey et al., 2010).
 - Professional and credentialing organizations have moved away from the word "client"

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Nine core themes in forensic rehabilitation ethics
(Barros-Bailey & Catfield, 2014)

1. Professionalism and responsibility
2. The Public Trust
3. Integrity
4. Objectivity and Independence
5. Confidentiality and Clarification of Role
6. Professional Care and Competence
7. Scope and Nature of Services
8. Forensic Assessment
9. Fees and Promotion

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Question for audience

- What professional code do you follow?
- When is the last time you reviewed it?

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Code of Ethics overview

- CRCC Code of Professional Ethics for Rehabilitation Counselors
 - Section A: The Counseling Relationship
 - Section B: Confidentiality, Privileged Communication, and Privacy
 - Section F: Forensic Services
 - Section G: Assessment and Evaluation
- ABVE Code of Ethics
 - General Guidelines
 - Canon 1: Behave in a Legal, Ethical and Moral Manner
 - Canon 2: Respect for Referral Sources, Parties, Evaluatees
 - Canon 5: Confidentiality
 - Canon 6: Assessment

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Role of forensic vocational evaluator

CRCC: Clients/Evaluatees:

- "When employed to render an opinion for a forensic purpose, rehabilitation counselors do not have clients. In a forensic setting, the evaluatee is the person who is being evaluated. If a section or standard in the Code does not seem to be relevant to forensic practice, rehabilitation counselors should nevertheless adhere to the spirit of the Code."

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Aspirational ethics

- CRC Six Principles of Ethical Behavior
 - Autonomy
 - Beneficence
 - Fidelity
 - Justice
 - Nonmaleficence
 - Veracity

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Example: The position of the evaluate

- What is given up by nature of the legal process?
 - Medical information
 - Financial/work information
 - Personal/relationship history
 - Legal history
- Who has/should have access to this information?


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Client dignity



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Is it a big deal?



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Client dignity

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Robust professionalism

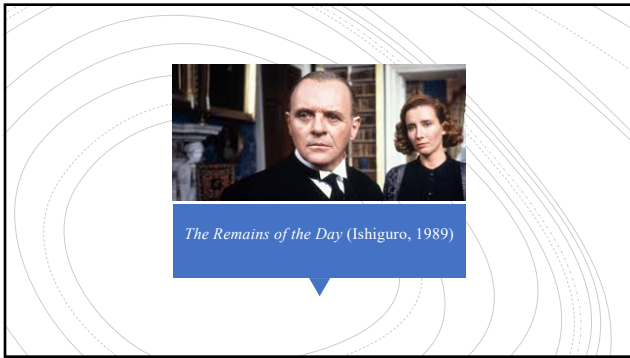
- How do we apply aspirational ethics in forensic rehabilitation practice?
 - Is there a disconnect between professional duties/aspirations and forensic obligations/aspirations?
 - Is it enough to meet the minimum for acceptable behaviors in forensic practice?
 - Does the work of forensic evaluation encourage robust professionalism?

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Robust professionalism

- Professionalism is "an activity that involves both the distribution of a commodity and the fair allocation of a social good but that is uniquely defined according to moral relationships. Professionalism is a structurally stabilizing, morally protective force in society" (Wynia et al., 1999).
 - Professionalism protects not only vulnerable persons but also vulnerable social values.

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Robust
professionalism

- Currently, forensic ethical standards and the dominant theories of ethics applied to forensic work err on the side of supporting a narrow, restricted professional role which reduces conflicts of interest and serves the legal obligation rather than the client (Candilis, Weinstock, & Martinez, 2007)
- Does personal morality also play a role in forensic work?
 - Can/should views on retribution and fairness, compassion, and human dignity be made invisible in order to remain objective, neutral, and exclusively allied to the legal system?


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Robust
professionalism

(Candilis et al., 2007)

- Professional forensic work should consider personal morality and cultural values This requires a subtler grasp of their conflicts
- Accepting a primary duty within a flawed judicial system as it exists now may negate much of what constitutes forensic professionalism.


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Conflicts in role: Personal and professional obligations

- A clinician generally undertakes a client-centered approach with emphasis on the client's perceptions
 - Interested in the client's truth
- A forensic expert typically takes a descriptive approach with an emphasis on objective information and assessment
 - The legal system is rarely concerned with an evaluatee's psychological reality or advancement


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Robust professionalism

- Should the ethical requirements in forensic rehabilitation be fulfilling the court appointed task?
 - Is further activity by rehabilitation professionals prohibited, voluntary, merely permissible, or supererogatory (beyond the call of duty)?
- Are there activities outside the required forensic tasks that should be required—activities defined as part of the forensic expert's duties as a professional person?
- How do aspirational ethics apply in forensic practice?

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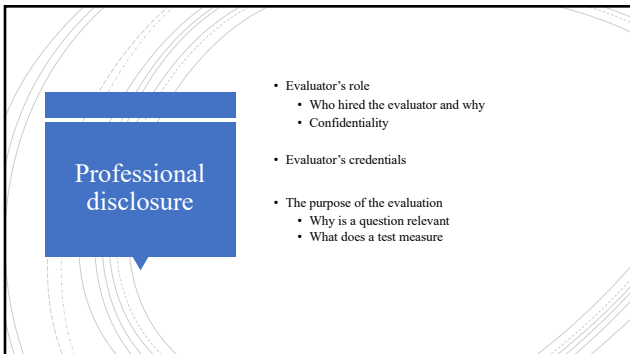
Robust professionalism: Applications

- The Americans with Disabilities Act (1991) prohibits discrimination based on disability
 - Problem solved?
- Pay is unequal for white men, women, and people of color
 - Should that impact our opinions (e.g. calculations of earning capacity)?

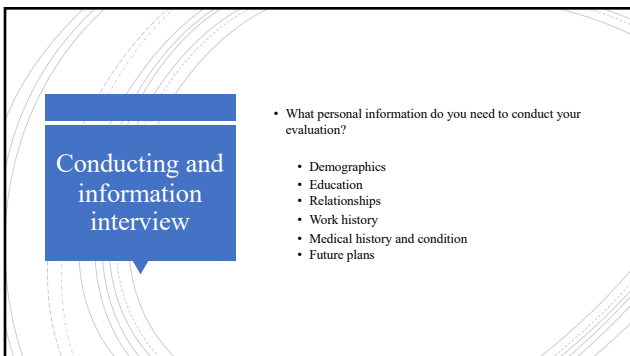
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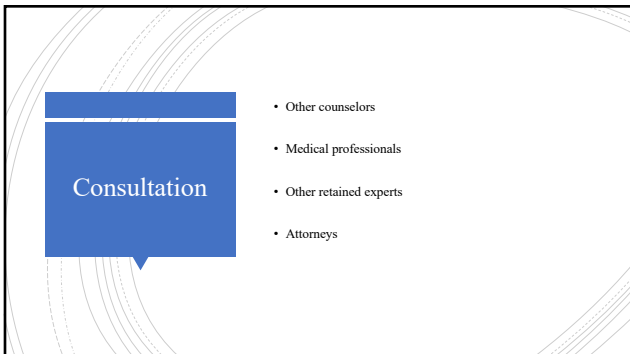
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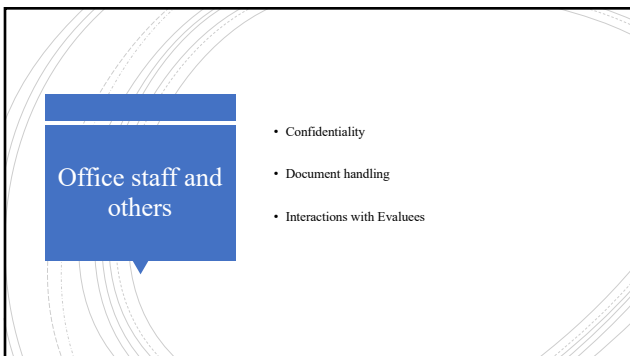
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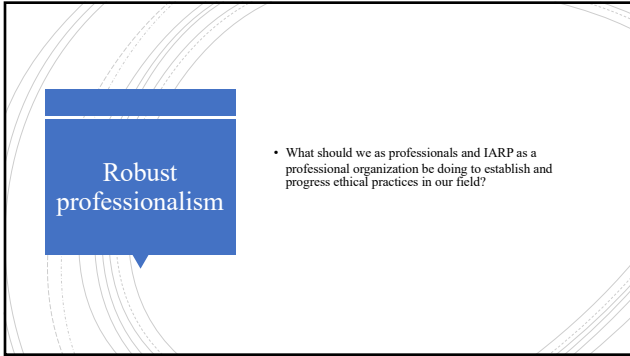
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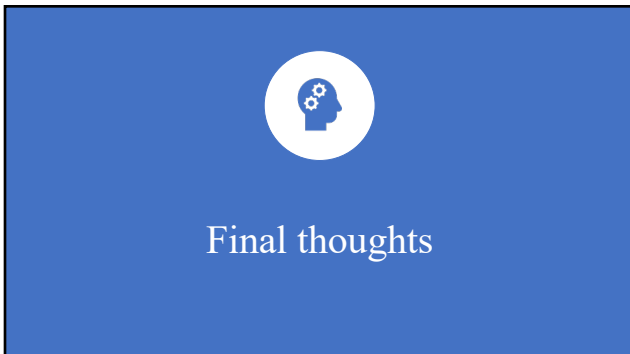
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Robust professionalism

- What should we as professionals and IARP as a professional organization be doing to establish and progress ethical practices in our field?

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Final thoughts

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