



# North Carolina Board of Licensed Professional Counselors

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## NCBLPC Professional Brief

### **Content Area:**        Counseling Records

#### **Brief Overview/Description:**

Counseling records are a critical component of professional practice. Our client records are not only an ethical imperative according to the ACA Code of Ethics (A.1.b.), but serve many practical functions. Counseling records allow for consultation and collaboration with other professionals when appropriate, provide for continuity of care when clients are referred to other professionals, document evidence of counselor competence, and are required for third party billing. Many agencies, private practices, and other counseling settings such as schools and higher education institutions have specific guidelines for how progress notes are written and the way that records are kept. They may also have procedures in place to assist counselors with transitioning a client to another professional as well as collaborating with other professionals and sharing information from a client's records. When keeping records, counselors must take care to record accurate information about client progress as well as the services he or she is providing for the client. Records must be kept up to date and be updated in a timely manner following each service provided to clients. Furthermore, records are to be kept in a secure location that is only accessible to appropriate staff and personnel.

Our clients have the right to examine confidential information recorded in their counseling file/record (ACA, B.6), except when access to this information may cause harm to the client. Reviewing the file with a client can be a good idea and allow for the counselor to answer any questions the client may have about information in the file.

Disclosure of confidential information from counseling records may be required in some situations. Counselors may have written consent from clients on file allowing disclosure of information from his or her record to certain other third parties (such as a referral source, physician providing care or medication management, another counselor with whom you are collaborating). Even with a written consent on file, clients should be made aware of any disclosure that will take place. If a counselor is sued by the client for any reason related to services, then the counseling records may be considered as part of the suit.

Counseling records should not be destroyed immediately when a client is terminated or a client case is closed. Records should be maintained for future reference by the counselor, client, or other third party for seven years for adult clients and ten years for minor clients. Many agencies, private practices, schools, and institutions of higher education have guidelines for how long records are to be kept after a client discontinues or completes therapy or after a student graduates from the educational institution. At the time deemed appropriate that records no longer need to be kept, counselors should dispose of the client records in a manner that continues to protect the confidentiality of the client.

#### **Resources:**

ACA Code of Ethics A.1.b and B.2.c; North Carolina General Statute § 122C-53 (2010)

#### **Key Legal Factors:**

Client records or other confidential information may be subpoenaed by court order. In these instances, if a written consent from the client cannot be obtained, counselors work to keep the disclosure from being required or seek to provide as minimal of a disclosure of confidential information as possible (ACA, 2005, B.2.d.). As noted in the ACA Code, "When subpoenaed

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to release confidential or privileged information without a client's permission, counselors obtain written, informed consent from the client or take steps to prohibit the disclosure or have it limited as narrowly as possible due to potential harm to the client or counseling relationship" (B.2.c.).

Confidential information in records may be disclosed without specific written consent in cases where there is evidence of potential harm to self (client). There is no duty to warn mandate, however, in North Carolina. Therefore, counselors must take care in deciding to release such confidential information that may be included in a counseling record.

Information that clients share with their counselor is privileged and confidential. Confidential refers to the private nature of information shared, and to the trust in one's counselor that information shared in counseling will stay there. Confidentiality also speaks to the intimacy that exists in a counseling relationship as clients disclose very personal information to the counselor.

Privilege addresses the fact that information shared by a client to a counselor does not have to be shared in a court hearing and has an exempt status. North Carolina General Statute § 8-53.8 (2010) maintains that unless a judge deems the disclosure of this information is critical to rendering justice, a counselor does not have to disclose such information and it is therefore considered privileged.

**Real Issues to Consider:**

How much information is enough or too much for a counseling record/client file? Simultaneously, counselors must document their assessment and interventions with a client thoroughly to benefit the client and to protect the counselor, but must also protect the client by including too much detail. The "test of publicity" when writing case notes suggests that mental health professionals have the mindset that all notes will be read by another party at some point in the future by the client, a family member, or a public official. Follow file maintenance and note taking protocols set forth by the agency, institution, or employer for whom you work, but keep in mind client confidentiality.

**Catch 22:**

Counselors must balance client confidentiality with providing enough information in client records when writing progress notes that other professionals can effectively provide care in collaboration with the counselor or in situations when the counselor is no longer able to provide services and a new counselor begins working with the client.

**Summary Statement:**

Counseling records are an essential component of the work of counselors and allow for accurate documentation of client progress and counselor services, as well as continuity of care when collaborating with other professionals or when a client is referred to another professional. Client confidentiality is a primary concern when maintaining counseling records.