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Addressing Secrets in Couples Counseling: An Alternative Approach to Informed Consent

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This article presents an alternative approach to informed consent that addresses unique concerns regarding confidentiality in marital and relationship counseling. Professional ethics codes rarely provide therapists with specific guidance on how to respond to clients who wish to keep secrets from their spouse or partner. Moreover, scholars writing about confidentiality frequently offer contradictory advice on how to ethically treat those couples presenting with secrets. This article suggests that regardless of one’s viewpoint on the issue of secret keeping in counseling, therapists best serve couples by advising them at the onset of treatment of the counselor's policies regarding confidential communication. In addition to discussing issues regarding privacy and confidentiality in couples counseling, this article presents one example of an informed consent document designed to address this important concern.

Keywords: confidentiality; privacy; ethics; family secrets; couples counseling

Mental health professionals working with couples and families frequently are confronted with moral and ethical issues not faced by therapists or counselors treating individuals. Writers addressing the complicated issues surrounding privacy and confidentiality when treating married and unmarried couples have described the minefields conscientious therapists must navigate (Gottlieb & Cooper, 1993; Hare-Mustin, 1980). Others have mapped out some of the pathways around these obstacles (Karapel, 1980; Patten, Barnett, & Houlihan, 1991). One particularly thorny issue likely to present itself to counselors working with couples concerns the topic of secrets shared with the therapist by one client but withheld from the client’s spouse or partner (Brendel & Nelson, 1999; Glass, 2002). Indeed, there has been considerable debate on whether counselors should reveal client secrets (Margolin, 1982). Professional ethics scholars emphasize the importance of establishing clear policies regarding confidential communication when working with couples (Margolin, 1998; Vangelisti, Caughlin, & Timmerman, 2001). However, a search of the literature found no explicit written examples of such policies to guide therapists when working with couples. Thus, the purpose of this article is to present one approach to informed consent that addresses unique concerns regarding confidentiality in marital and relationship counseling.

A carefully constructed confidentiality agreement becomes essential when therapists agree to treat clients individually as well as conjointly with their spouse or significant other. Although none of the ethical codes indicate that conducting concurrent individual and conjoint counseling is unethical, many organizations caution their members about the ethical pitfalls inherent in doing so. Thus, counselors working with couples will likely, perhaps inevitably, find themselves grappling with the issue of one person’s right to privacy versus a partner or spouse’s right to obtain access to information relevant to their personal well-being. Although marital and relationship counselors encourage open and honest communication, they occasionally compromise and concede to requests from their clients to keep certain information secret. Often, this means withholding important, sometimes critical data involving highly charged topics such as infidelity from the innocent or naïve partner or spouse (Weeks, Gambescia, & Jenkins, 2003).

There are additional concerns when the disclosures relate to illegal activities. For example, adultery is considered a crime in some states. As a result, it is possible that keeping a
secret of illegal activity from a spouse could result in being charged with conspiracy or “alienation of affection.” Although this charge is highly unlikely, some writers have argued that counselors must not condone illegal activity by keeping secrets (Cottone, Mannis, & Lewis, 1996). Therefore, counselors should be familiar with their state laws and ethical standards.

**ETHICAL STANDARDS CONCERNING CONFIDENTIALITY IN COUPLES COUNSELING**

The ethical codes of conduct address, with varying degrees of specificity, appropriate therapist behavior relating to confidentiality when working with couples. For example, the American Counseling Association (1995) stated unequivocally that “information about one family member cannot be disclosed to another member without permission” (p. 6). Similarly, the code of ethics for the therapists of American Association of Marriage and Family Therapy (2001) required that “therapists may not reveal any individual’s confidences to others in the client unit without prior written permission of that individual” (p. 3). The International Association for Marriage and Family Counselors (1993) likewise recommended that “unless alternate arrangements have been agreed upon by all participants, statements made by a family member to the counselor during an individual counseling or consulting contact are to be treated as confidential and not disclosed to other family members without the individual’s permission” (p. 2). In contrast, the American Psychological Association (2002) suggested that psychologists clarify their role and their use of information, but it does not explicitly prevent psychologists from sharing material divulged by one family member in an individual session with the other family members in therapy.

Because of differences among professional organizations and state licensing boards regarding appropriate ethical behavior, it seems likely that counselors would receive conflicting and contradictory messages about this issue. One position is that counselors should refuse to keep secrets (American Counseling Association, 1995). From this perspective, secrets are seen as counterproductive to open and honest communication that is necessary for successful counseling. For example, Pittman (1987) wrote, “the secret doesn’t belong to the adulterer or to the therapist but is the property of the marriage” (p. 121). Likewise, Weeks et al. (2003) recommended that counselors should terminate conjoint treatment if the client refuses to divulge the secret information. On the other hand, others argued that maintaining secrecy, at least some of the time, allows the therapist to get more honest and complete information from family members, increases the likelihood of accurate assessment, and facilitates successful therapy (Corey, Corey, & Callanan, 2003). Still, others have made the case for a third position, stressing the need for flexibility and encouraging counselors to use their professional judgment when determining whether to reveal or maintain a secret. In effect, this middle-ground approach argues that counselors should make the decision in accordance with the greatest benefit for the couple and the therapeutic process (Remley & Herlihy, 2005).

Even the most conscientious counselors often disagree about the best course of action when determining whether or not to reveal a secret. For example, marital and relationship counselors may find themselves working with someone who insists on keeping secret certain information that is vital to their partner’s well-being. In situations such as these, counselors often use their professional judgment to determine whether or not to break confidentiality (Remley & Herlihy, 2005). They may also consider options such as (a) maintaining confidentiality, (b) encouraging or perhaps insisting on full disclosure, (c) referring the couple to another therapist, or (d) revealing the secret to the naïve partner (Weeks et al., 2003). Regardless of one’s decision, it is critical that counselors communicate their policy on such matters before the onset of counseling. As Margolin (1982) stated, “The most difficult predicament for the therapist would be if she or he failed to convey a policy on confidentiality” (p. 792). Indeed, when secrets such as physical or sexual abuse, sexual orientation, infection with a sexually transmitted disease, or drug abuse are revealed to counselors, they must be prepared to reiterate their policy on confidentiality and to follow the policy that was agreed on by all parties prior to starting treatment.

**ONE CLINICIAN’S APPROACH TO INFORMED CONSENT WITH COUPLES**

Although ethics scholars in family counseling recommend a comprehensive approach to informed consent on issues of confidentiality (e.g., Lakin, 1994), no publication has provided a written guide for counselors to use when working with couples. This article presents one document for counselors and therapists to consider. Before reading the following informed consent document, it is important that readers understand the perspective from which the authors approach these related ethical issues.

We do not believe that there is but one right or ethically appropriate way to resolve the kinds of issues discussed in this article. However, we do share one primary therapeutic assumption, which guides us in our work. Specifically, we believe that it is an ethical and moral obligation to act within the best interests of our clients. In addition, we believe that practice in this field requires an awareness of our own values and how these values intersect with issues presented by our clients. Indeed, even professional judgments are influenced by personal values. Thus, it is imperative that counselors clarify their position on a variety of issues concerning, for example, the value and importance of friendship, love, and marriage, especially as they relate to the mental health of our clients (Walenc & Bass, 1986).

In conclusion, determining whether or not to reveal a client’s secret involves careful assessment of the potential risks.
and benefits. We understand that certain approaches bring with them greater risk than others. However, the least risky intervention may not always be the most therapeutic. Thus, counselors should minimize the potential for harm by establishing a pretreatment contract that outlines and addresses such concerns with their clients.

An informed consent document, written by Barry A. Bass, a licensed psychologist and certified sex therapist of the American Association of Sex Educators, Counselors, and Therapists with 35 years of clinical experience, is included as an appendix. This document, which supplements a more generic privacy and confidentiality agreement that is given to all prospective clients, deals exclusively with those privacy issues specific to couples.

APPENDIX
AN INFORMED CONSENT DOCUMENT
FOR INDIVIDUALS IN COUPLES COUNSELING

This document deals with privacy issues specific to couples and supplements the document already given to you that deals with related issues in therapy. Please read it carefully and jot down any questions you might have so that we can discuss them at our next meeting. When you sign this document, it will represent an agreement between us.

First of all, I wish to reassure you that I am personally and professionally committed to protecting your privacy. I realize that therapy can only take place in a setting in which everyone feels secure in the knowledge that his or her thoughts and feelings will remain protected and secure within the confines of the therapy office. To protect your privacy, I have put the following policies into effect.

To prevent an inadvertent breach of confidence, I have a policy of not greeting a client whom I meet outside of my office. Thus, should we happen to meet in public, I will intentionally not say hello to you, in order to protect your confidentiality. You may, however, feel free to greet me in public if you so desire.

My office has been designed to protect your privacy in that patients leaving my office will leave through a different door than the one by which they arrived. This arrangement spares you from bumping into someone with whom you are acquainted in the waiting room.

Issues concerning personal privacy and professional confidentiality are somewhat more complicated when working with married or unmarried couples. In addition to the exceptions to confidentiality outlined to you in the document titled “Welcome To My Office,” work with couples sometimes requires certain additional compromises in privacy.

For example, part of our couples work will require that I meet individually with you and at other times individually with your spouse or partner. During those individual meetings, I will require from you permission to share with your partner anything that I deem appropriate. I will strive to use my best professional judgment to share this information as considerately and kindly as possible. Therefore, although I would hope you would be completely honest with me about your personal as well as relationship concerns, you might choose not to share with me certain information if you are concerned about the possibility of your partner learning of it. Essentially, what I am saying is that unless we make a prior agreement about certain specific information, I will use my professional judgment in deciding whether or not any information you have shared with me will subsequently be shared with your spouse or partner.

In this regard, there may be times when you or your partner requests that I keep certain information secret from the other. At times I might agree to keep your secret. Thus, there may be times when I might have learned something from you that I will agree to keep secret from your partner. Accordingly, there may be times when your partner and I will have agreed to keep certain information secret from you. Warning! There is a tendency to feel betrayed when you later learn that I kept that information from you. Unfortunately, that is part of the nature of working with couples. Thus, we will all be walking through a complicated maze of agreements and private communications.

Some therapists attempt to get around this complication by making blanket rules that I believe do not best serve the couples we work with. For example, some therapists have a “no secrets policy.” These therapists say that everything and anything that they hear in therapy will be shared with the other partner. Although that certainly makes it easier for the therapist—he or she does not have to decide when or what information will be kept from the other person—I believe that it is better for the therapist to make the final determination about what is or is not essential for either partner to know.

Other therapists avoid this problem in another way by simply requiring that all couple meetings take place conjointly. That is, these therapists ensure that they never hear a private or secret communication by arranging to never meet privately with only one member of the couple. Thus, if one spouse or partner cannot make it to a session, the session is cancelled. I, on the other hand, believe that couples are best served by giving each member of the couple the opportunity to meet with me individually. Unfortunately, with that flexibility goes certain inevitable confidentiality complications.

What are some of the complications that can arise from this policy? I might uncover or discover secrets about you or your partner or spouse that the other of you is unaware of. For example, I might learn that (a) your partner or spouse had an affair that is now ended; (b) is still having an affair and wants help in ending it, or (c) is still having an affair and has no intention of ending it.

In brief, my policy concerning private communication is that I reserve for myself the right to share or withhold from you or your partner information that I learn from you or your partner during individual therapy sessions. My commitment to each of you is to assist you in having the kind of relationship you desire. My experience is that the chance of reaching that goal is enhanced if I have the flexibility in those privacy and confidentiality issues spelled out in this article.

Your signature below indicates that you have read the information in this document and agree to abide by its terms during our professional relationship.

Signature ____________________________

Date ________________________________
REFERENCES


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