



The Diversity, Equity, and Inclusion Legislation and Potential Challenges to Teaching and Preparing Counseling and Other Helping Professionals

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Introduction

The Diversity, Equity, and Inclusion (DEI) Act was passed in 1968, and significant revisions over time stem from a decades-long struggle for racial, sex, and gender equality that has positively impacted once excluded groups, the underserved and underrepresented populous in American society. Protections stemming from the DEI Act have increased equity and inclusion of various groups in employment opportunities, educational opportunities, and freedom of choice. The success of the DEI Act has been proven based on the results of a plethora of empirical research studies supported by State and Federal funding for various programs that have resulted in better outcomes in the overall mental health and well-being of individuals, families, and communities across America. For example, America is currently experiencing a mental health crisis. Various studies concluded that cultural determinants based on the historical treatment of various groups, distrust of mental health interventions and therapists, fear of disclosure, etc., were primary deterrents. As a result, National, State, and local government initiatives were created to investigate further and address these issues. Local, State, and national helping profession organizations that address mental health and well-being connected with and collaborated with local, National, and State governments to address the issue collectively. As a result, States that regulate the helping professions and consequently regulate college curricula for the helping profession mandated that curricula include ethical considerations and coursework that address social, cultural, and diversity. The overall result was a significant step in

addressing the National crisis, given that every State in the Union and surrounding territories regulates the mental health profession in their respective State and graduate programming at State Universities for the helping professions.

However, recent challenges to the DEI Act and similar legislation pose potentially unforeseen obstacles to the helping professions and university programs that prepare the next generation of helping professionals entering the field. This article will review the potential impact of current DEI legislation on university programming and helping professions.

University Programming and the Helping Professions

Counseling, social work, and psychology programs are required/ authorized by law to include content within the curriculum that addresses cultural competence, diversity, and social determinants to assess the overall mental health and well-being of the individual, families, and communities. State Boards scrutinize applicant applications for inclusion of core coursework and competencies when evaluating and approving licensure applications. Professional organizations that support the helping professions, such as the American Counseling Association (ACA), the National Association of Social Workers (NASW), and the American Psychological Association (APA), among others, have established guiding principles (Code of Ethics) for their respective professions in collaboration with State professional guidelines. The

guiding principles of the various professions are aligned with the State Constitution and the United States Constitution.

Given that States approve and regulate university programs and State Licensure Boards. For example, "To Do No Harm" emphasizes avoiding harm to patients while receiving care, extending beyond physical injury to include clients' dignity. This ensures that helping professionals remain conscious of the consequences of their decisions. The Do No Harm Act also provides one's constitutional right to religious freedoms.

Over the past decade, challenges to university counseling program requirements have triggered changes in how institutions regulate programs, with consequences given that States regulate both university programming and the helping professions as it relates to "To Do No Harm." In *Keeton v. Anderson-Wiley* Augusta State University, 2011, a conflict in teaching and training became an issue when Keeton believed her religious rights and beliefs were violated because she refused to work with an LGBT client during her internship experience. In another case, *Ward v. Wilbanks* – Eastern Michigan University, 2010 -2012, a conflict in teaching and training based on personal beliefs and values arose when Wilbanks indicated her inability to A student in a counseling program claims a right to discriminate against clients who wish to discuss same-sex relationships because it violated her religious belief. In both cases, the institutions prevailed, based on well-established programming and external organizations that support the helping professions that have evolved over the past century. However, subsequent appeals of decisions related to the cases resulted in changes in how students are disciplined at State institutions from a constitutional rights perspective. For example, in *Keeton v. Anderson-Wiley*, a student at Augusta State University (ASU) sought a court order requiring ASU to reinstate her in a graduate-level counseling program even though she insisted on a right – based on her religious beliefs – to counsel lesbian, gay and bisexual clients that being gay is immoral. The case significantly impacted counseling programs, particularly in addressing ethical standards and non-discrimination policies.

Of critical interest here is that both students indicated that they communicated their beliefs, values, and limitations in working with various populations throughout their matriculation through the program through various lectures in class, group activities, debates, and clinical site selection; that professors were aware of their beliefs prior to beginning the clinical internships, and that both felt their constitutional rights were violated. A literature review indicates other cases that preceded the case mentioned above where students challenged programming standards, triggering legislative changes in how students are disciplined so as not to violate students' constitutional rights. More will follow with the introduction of Senate Bill 17, disbanding DEI training for faculty and staff in public universities, which became effective January 1, 2024, and the bills passed in Florida banning DEI initiatives in the state's universities.

---. and the discuss how racial oppression, slavery, racial discrimination, and racial segregation violated the individual liberties of persons and how laws were utilized to enforce racial

discrimination [1]. For example, Officials tasked with reviewing instructional materials are also prohibited by law from endorsing materials that unfairly disadvantage individuals based on their color, race, creed, ancestry, national origin, religion, and gender, among other attributes. Furthermore, it strictly prohibits professional and educational programs that advocate for the discrimination or mistreatment of individuals in the name of promoting equity, diversity, or inclusion. Social-emotional learning strategies are frequently implemented to promote mental health. Given the case, this paper underlines how the diverse discussions surrounding WOKE legislation may have an adverse effect on the fundamental basis upon which counseling has developed, as well as on the education and training of students aspiring to enter the field.

The Conflict with the Principles Promoted by Ethical Codes of the Counseling Profession

The objective of mental health counseling is to advance the progress and welfare of communities, individuals, and organizations by utilizing counseling theories, interventions, and techniques. Mental health clinicians serve multicultural and diverse populations facing diverse challenges, including stress, trauma, mental disorders, discrimination, oppression, and marginalization [1]. As a result, mental health counselors must address their clients' ethnic, cultural, racial, gender, and sexual orientations. Besides, they should competently consider the social, cultural, and environmental factors that impact the client's mental health and normal functioning.

Mental health counselors have a fundamental obligation to promote human rights and social justice on behalf of their clients and society. In this case, social justice is deemed as a proactive involvement of counselors in addressing the systemic obstacles and marginalization experienced by individuals based on their cultural, racial, gender, sexual, and ethnic prospects [2]. Besides, human rights entail the intrinsic entitlements that are universal to all individuals, irrespective of their gender, race, nationality, religion, and ethnic origin, among other distinguishing features. Thus, human rights and social justice aim to guarantee equality, liberty, and dignity among society members.

Regardless of the underlying obligations and core values, current and proposed DEI legislation could lead to challenges in effectively teaching and training mental health counselors and other helping professionals when addressing social justice and human rights topics in the classroom. The rationale is that mental health counseling programs cannot be considered complete without including courses on human rights and social justice [2]. Counselors and clients alike need to cultivate an attitude of critical reflection in order to confront their preconceptions, prejudices, and biases and work together to bring attention to and remedy systemic inequities and societal injustices.

Due to the contrasting objectives and perspectives, there is a potential for discord to arise regarding the proposed rule changes and woke legislation. The fundamental rationale is that the suggested modifications to regulations might be interpreted as

an endeavor to improve the accessibility and capability of mental health counseling services for the entire society, with a specific emphasis on communities that are economically disadvantaged and marginalized [3]. Nevertheless, there are very high chances of revising the prevailing curriculum for mental health counseling to align it with emerging societal issues and challenges, including but not limited to the racial justice movements, the mental health crisis, and the COVID-19 pandemic [1]. Conversely, this legislation might be presumed as a medium for enforcing certain politically or culturally instigated agendas that can potentially inhibit the scientific and clinical operational standards of mental health counselors. Hence, due to the tendency to encourage cultural and identity conflicts, this legislation may have a significant influence on the perceptions and values of mental health counselors. Ultimately, conflict will arise between the proposed rule changes and woke legislation.

The underlined situation depicts the extent to which the prevailing state laws fail to align with the projected regulatory amendments. For example, it may manifest as a disagreement regarding the suitability and applicability of the health equity continuing education program to the mental health counseling profession, as well as its relevance and appropriateness within the mental health counseling domain. This situation can also manifest through a series of hostilities and aggression against specific mental health counselors and their subsequent clients bearing divergent opinions or working against this ideology [3]. These particular individuals might interpret the legislation of the woke state legislation as a violation of their liberties and rights or as a threat to them. In this case, it is presumed that unnecessary disagreements will emanate from the inconsistent and ineffective application of woke legislation and subsequent regulatory changes. Additionally, concerns arise regarding their compatibility and adherence to preexisting laws and regulations, such as the HIPAA and ACA Codes.

For mental health counselors and other helping professionals, DEI is intricately woven into the guiding principles of the professions and State Constitutions and the United States Constitution to ensure fair and equitable treatment in employment and educational settings, one's freedom of identity, cultural and social expression, beliefs, and norms, and access to services. Recent legislation passed in various States presents a direct challenge to DEI legislation in general, specifically counseling programming and the helping professions. For example, recently passed legislation in Florida and Texas prohibits, among other things, instruction that holds individuals accountable for the past actions of others based on their color, sex, or national origin [1]. It declares that it is unacceptable to instruct anyone to feel inferior or ashamed based on their race, class, etc., (as it relates to African Americans and slavery). Further, it is in direct opposition to affirming issues related to gender equality (ex., LGBQ+). Hence, the banning of discussions and books that address historical details of the evolution of various groups in American society (ex., slavery, LGBQ+, etc.). Free speech advocates and civil rights organizations have criticized the new laws in Florida, Texas, and other States, claiming they will stifle educators and heavily impact the helping professions. This article will review the critical challenges current legislation poses to

counseling programming and the helping professions in general, given that higher education institutions are charged with preparing individuals to enter the field.

The Conflict with the Identity Development Model as It Relates to Acculturation and Accommodation

Current Legislation banning EDI legislation often overlooks the identity development paradigm regarding acculturation and accommodation in the community, family, and individual settings. Legislation that conflicted with the underlying ethical and cultural counseling concepts was formulated and signed into law in Texas and Florida [1]. This law is shaped by the ideas that entail a political and social framework for promoting empowerment and uplifting the identity of marginalized and oppressed groups.

The "Stop Woke Act," enacted in Florida, explicitly forbids educational programs and workplace training that tend to promote inherently sexist, racist, and oppressive behaviors, whether consciously or unconsciously [5]. Besides, it refutes the tendency of privileging or oppressing individuals based on gender, race, or nationality. It ensures individuals take personal responsibility for and obligation to experience anguish, guilt, or other psychological distress associated with their actions. Parents may also file a lawsuit against schools if they have reason to believe that the instructors or administrators are exposing them to such experiences.

On the other hand, the Texas legislature passed several bills affecting the education and training requirements for mental health counselors. One such bill permits applicants to demonstrate their qualifications through alternative means, lowering the barriers to entry into the behavioral health workforce. Another bill mandates that healthcare providers should complete health equity continuing education, which encompasses subjects including social determinants of health, health disparities, cultural sensitivity, and implicit bias.

The ACA's values and standards serve as the foundation for the cultural and ethical principles of counseling. However, the proposed regulations might inherently oppose the underlying standards and principles. An example of a fundamental principle is upholding dignity and respect while advocating for social justice and human rights across all operational domains. The second principle is that structural and systemic barriers that impact individuals' mental health and well-being must be recognized and addressed. Additionally, it is recommended that counselors promote the empowerment and integration of all individuals, irrespective of their varied circumstances. Furthermore, clinical social workers should ensure they recognize and acknowledge their clients' distinct identities and backgrounds origin [6]. They are anticipated to demonstrate responsiveness and sensitivity towards, among other unique characteristics, the cultural, ethnic, racial, gender, and sexual orientation of the clients. The fourth principle posits that clinical social workers should be highly private and confidential when handling sensitive information and client data. Additionally, greater emphasis should be placed on safeguarding their rights and liberties. Finally, counselors should constantly challenge their

presumptions, biases, and prejudices when handling sensitive issues affecting their diverse clients. The primary essence is to ensure minimal conflicts between WOKE legislation and the identity development framework.

Due to the legislation enacted in Texas and Florida, the counselor-client relationship is significantly susceptible to conflicts and misunderstandings. The reason is that these legislations prohibit, among other things, interventions that hold individuals accountable for the past actions of others based on their color, sex, or national origin [6]. It declares that it is unacceptable to instruct anyone to feel inferior or ashamed based on their race. Conversely, divergent perspectives can potentially compromise the effectiveness of the counseling procedure and the overall coherence and proficiency. Despite the need for counselors and other clinical social workers to adhere to the underlying state legislations, they should stick with their professional codes of conduct at all levels [7]. Additionally, they should be capable of managing a variety of uncertainties that may arise due to the awakened legislation and proposed regulations. Potential risks that may arise include opposition and retaliation, significant disputes, lack of consistency, confusion, and the possibility of legal and disciplinary consequences. Lastly, they are mandated to consult their superiors, peers, and other significant professionals and undertake subsequent training to ensure they provide valuable services without unnecessary bias and prejudices.

The Conflict with the Federal and State-Supported Programs for Addressing Mental Health Care

Despite the prevalence of trauma among those seeking help in behavioral health settings, many survivors either fail to acknowledge the pervasive impact of trauma on their lives or choose to ignore or downplay the issue when discussing their past experiences. Similarly, therapists may not inquire about a client's traumatic experiences because they are ill-prepared and are confined by the clinical orientation of their program. The first step in creating a trauma-informed environment throughout the continuum of treatment is for frontline practitioners and community-based programs to acknowledge the correlations between traumatic experiences and behavioral health disorders [7]. The most appropriate measure is to address the client's needs in a secure, cooperative, and empathetic approach. The primary intent is to avert treatment methodologies that re-traumatize individuals with prior experiences of trauma who are seeking assistance by capitalizing on clients' fortitudes and adaptability within their communities and surroundings. Besides, it is necessary to embrace trauma-informed principles within organizations by providing staff with support, consultation, and oversight.

As much as regulations have been established to enhance the dissemination of trauma-informed practices in clinical settings, some legislation is detrimental to accomplishing this objective. One of the significant laws in this real is the Trauma-Informed Care for Children and Families Act of 2017, which seeks to educate the

public about trauma, research effective methods of prevention and treatment, and raise general awareness of the issue [6]. The primary aim of this legislation is to enhance the establishment of a federal task force dedicated to trauma-informed care and provide grants and technical assistance to diverse communities for the implementation of trauma-informed practices. The approaches put forth by this legislation are implemented in diverse domains, including the education, health care, and justice departments.

On the other hand, the "Stop Woke Act," enacted in Florida, explicitly forbids educational programs and workplace training that tend to promote inherently sexist, racist, and oppressive behaviors, whether consciously or unconsciously [5]. Besides, it refutes the tendency of privileging or oppressing individuals based on gender, race, or nationality. It ensures individuals take personal responsibility for and obligation to experience anguish, guilt, or other psychological distress associated with their actions. Parents may also file a lawsuit against schools if they have reason to believe that the instructors or administrators are exposing them to such experiences. The potential to restrict the ability and opportunity of counselors and educators to advocate for human rights and social justice on behalf of their students and clients would greatly influence trauma-informed care. Besides, its inability to address the structural and systemic barriers and marginalization that affect the mental health and well-being of diverse and marginalized populations renders this legislation inappropriate for addressing the aspect of trauma-informed care. Furthermore, the proposed legislation would establish an aggressive and extreme setting for educators and counselors, who could be held liable for legal and disciplinary repercussions if they advocated for trauma survivors or expressed their opinions.

Acknowledgment

None.

Conflict of Interest

No conflict of interest.

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