

Forensic rehabilitation services in the United States: Contemporary status and future directions

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RESUMEN

La prestación de servicios públicos de rehabilitación ha existido por casi 100 años en los Estados Unidos. En este período de tiempo, la profesión está madurando y se ha definido su preparación educativa y clínica requerida, y las oportunidades profesionales abundan. En los Estados Unidos hay una buena demanda de consejeros de rehabilitación y sus funciones están cambiando. Este manuscrito actualiza brevemente a los lectores sobre la formación en consejería de rehabilitación y explora el desarrollo y la creciente demanda de consejeros de rehabilitación en el sector privado. Al término de este trabajo, el lector reconocerá las oportunidades de empleo que los consejeros de rehabilitación pueden acceder y a través de su labor satisfacer a las diversas demandas que la sociedad tiene en esta materia.

ABSTRACT

Public rehabilitation service delivery has existed for nearly 100 years in the United States. With this period of time the profession is maturing and has a defined educational and clinical preparation, and professional opportunities abound. Rehabilitation counselors are in demand and their roles are evolving in the United States. This manuscript briefly updates readers on rehabilitation counselor preparation and explores the development and growing demand for rehabilitation counselors in the private sector. Upon completion of this manuscript, readers will clearly understand the employment opportunities which rehabilitation counselors can fulfill and meet evolving societal need.

PALABRAS CLAVE: Rehabilitación privada; Consejería de rehabilitación

KEYWORDS: Private rehabilitation; Rehabilitation counseling

The development of public vocational rehabilitation (VR) is intimately linked with several factors. Specifically these include, Federal legislation, the good will of others, and the guiding premise that investment in rehabilitation services geared toward employment will yield exponential returns in the forms of taxes and diminished reliance on governmental subsidies (Rubin and Roessler, 2001). Legislation has existed since VR began to serve all citizens beginning as the Smith-Fess act in 1920 (Leahy & Syzmanski, 1995; Rubin and Roessler, 2001; and Wright, 1980). Furthermore, it is apparent that roles of rehabilitation counselors mirrored Federal legislation and the majority of rehabilitation counselors were employed by the public VR system (Leahy & Syzmanski, 1995; Rubin and Roessler, 2001; Upton, 2011, and Wright, 1980). In the beginning of the public VR system, rehabilitation counselors were hired from interested professionals whom had training in relevant social services such as a special education, social work, etc. (Rubin & Roessler, 2001; Wright, 1980).

MILESTONES

However, it became apparent that merely having a desire to help persons with disabilities was not sufficient. Clearly, comprehensive training was needed and the Federal government recognized this need through the 1954 Amendments to the Rehabilitation Act (Rubin & Roessler, 2001; Wright, 1980). In short, the Federal government made training grants available for universities to develop and provide specialized training for persons who were pursuing training as rehabilitation counselors. As funding became available, these programs were developed and mechanisms for financial support of students ensued. So students with interest in the social sciences, may have been swayed toward rehabilitation counseling due to the availability of financial support for Graduate school training. These grants continue to be available for programs who train rehabilitation counselors who are committed to working in the public VR system. The financial incentives shaped rehabilitation education that is assessed by the Council on Rehabilitation Education (CORE), that has been accrediting these programs since the early 1970s.

For decades rehabilitation researchers have sought to understand what are the requisite roles and functions of rehabilitation counselors (Beardsley, & Matkin, 1984; Leahy, Muezen, Saunders, & Strauser, 2009; Muthard, & Miller, 1966; and Wright, 1980). Clearly, the shift in roles followed three definite trends. First, the exact nature of specified training and practice changed with regard to societal needs. In other words, persons with disabilities being served and services provided (e. g, training, supported employment) were evolving. Second, ongoing mandates to serve persons with more severe impairments were being fulfilled. Finally, a trend toward requiring a higher frequency of positive employment outcomes, while serving persons with more severe impairment, and dwindling governmental funding resources. In an attempt to assure a standard level of competence across university training programs, the Council on Rehabilitation Counseling Education (CORE) was established in the early 1970s and continues to review the educational training and clinical training requirements of rehabilitation in CORE Accredited programs (CORE-Standards, 2010). This creates considerable professional work and collectively strengthens the professional status of rehabilitation counselors.

CURRENT SCOPE OF PRACTICE

While rehabilitation counselors seem to find themselves working within a number of employment settings (e.g., public VR agencies, community rehabilitation agencies, education programs, employee assistance programs, health care, and forensic consulting), they each possess similar knowledge, abilities, and skills (Lewis & Upton, 2011). These settings provide unique services that target enhancing overall vocational opportunity and employment options for persons with varying disabilities. Although exact work tasks vary among employment settings, rehabilitation counselors have a unified knowledge base from which to serve persons with different disabilities.

In 2009, rehabilitation professionals (Leahy, et al., 2009) identified 12 essential knowledge domains for rehabilitation counselors, following job task analyses of current Certified Rehabilitation Counselors (CRCs). These knowledge domains can be grouped into a counseling (e. g., individual and

group counseling) domain; a vocational (e. g., vocational assessment, job placement, and consultation) domain; and a core rehabilitation (e. g., medical, functional, and environmental aspects of disabilities) domain. These areas of knowledge were gathered across a variety of employment settings with 35% of respondents working private, proprietary, rehabilitation, 58% from governmental and nonprofit organizations, and the remaining 7% from other sectors. All CORE accredited programs follow the same didactic curriculum and clinical training, so that Graduates can be qualified to take the CRC examination. The CRC is the oldest (since early 1970s) rehabilitation credential and demonstrates that holders of this credential are “qualified rehabilitation professionals”. Programs that are CORE accredited, are most likely to be awarded training grants (which pay for tuition, fees, and stipends in exchange for working for the public VR system).

Now one can understand that graduates of CORE accredited programs satisfactorily fulfill the hiring requirements of all public VR programs in the United States. The public sector still employs a majority of CRCs, but nearly 1/3 of CRCs are working in the private sector. It is clear from these data, that a shift toward employment in the private sector is underway. This is in stark contrast to the time when nearly all rehabilitation counselors sought employment in the public VR system.

FACTORS IMPACTING SHIFT TO PRIVATE SECTOR

There are a number of reasons why this shift is occurring. Scholars (Cioe & Upton, 2011; Rubin & Roessler, 2001; Wright, 1980) consistently emphasize similarities and differences in service delivery considering public VR versus private VR (forensic rehabilitation). Similarities include: familiarity with medical and psychosocial aspects of disabilities, use of counseling skills, utilization and use of local community resources, familiarity with occupational information, and common interest in helping persons with disabilities. Differences also exist, and public caseloads are larger (many times over 100 cases per counselor), eligibility criteria determined by Federal mandate, and services are free to the recipient of services. Whereas, private VR counselors provide services that are

covered by insurance, to a smaller number of clients, and have greater responsibility for returning injured clients to work than public VR counterparts. Reflecting on the requisite tasks of public versus private VR counselors may influence counselors to consider taking rehabilitation knowledge, skills, and abilities developed for public VR setting and shifting application of these acquired skills into the private sector.

Successful employment as a rehabilitation counselor in the private sector places certain demands on rehabilitation professionals. First, one learns specialized skill domains that researchers (Leahy et al, 2009) have identified. Second, rehabilitation counselors must understand and master existing employment-related resources such as the Dictionary of Occupational Titles (DOT), The Occupational Network Service (O*Net 98), the Occupational Outlook Handbook (OOH), the Classification of Jobs (COJ), the Bureau of Labor Statistics, local labor markets and rehabilitation resources, and Transferable Skills Analysis (Hollender, Upton & Anuar, 2011). Thirdly, it is imperative that rehabilitation counselors develop and use ethical guidelines and decision making models to provide forensic rehabilitation services (Lewis & Upton, 2011). The above requisites for forensic rehabilitation service delivery are skills that all rehabilitation counselors should have developed through educational preparation and professional practice in the field of rehabilitation counseling. Upon reading this list, readers who are rehabilitation counselors may think these requirements reflect information they already mastered during rehabilitation counselor education and professional services.

FORENSIC BEGINNINGS

Professional rehabilitation counselors are similar to other professionals in that they may choose to change one's work roles or employment focus. These changes may happen due to curiosity, career development desires, or out of necessity due to employment layoffs. Whatever the reasons, seasoned and relatively new rehabilitation counselors may seek that the skill sets they have mastered can be readily applied in a private (forensic) rehabilitation employment.

Many professionals beginning this type of work start out by seeking work within the Social Security Administration (SSA) and become certified as a Vocational Expert (VE) that can be called to take part in the Federal Disability Determination process (Sleister, 2000; Upton, 2003; Weikel, 1986). The SSA is a setting that follows a standard model that is the same across the United States, and requires the rehabilitation counselor to objectively participate in this process. In this context, rehabilitation counselors are VEs and must complete four core processes. Typically, an hour-long hearing takes place. An Administrative Law Judge, the claimant (person with a disability) and representative, as well as VE are present. This Judge runs the hearing, and specific information is gathered from the VE. First, the claimant's work for the past 15 years, known as *Past Relevant Work*, must be reviewed and classified using the DOT definitions of strength ratings (i.e., sedentary, light, medium, heavy, and very heavy exertion levels) and skill ratings (i.e., unskilled, semi-skilled, and skilled) work. Second, the VE provides a statement as to whether returning to past work is possible for the person with the disability (who is referred to as a "claimant" by the SSA) and finally, hypothetical questions are asked regarding the employability in the region of a person with functional limitations identical to the claimant's. During this step, the VE may be asked to complete a transferable skills analysis that can identify residual skills and regional employment the claimant can seek. After the VE testimony, the representative (usually an attorney) has the opportunity to ask questions of the VE. Although this may be perceived as a distressful event, this context is one that is non-adversarial in nature and is usually a civil process which can serve as a springboard to additional forensic work.

It is useful for a professional exploring forensic work to try this line of work. SSA work requires minimal preparation (reviewing the case beforehand), and relies on the VE's knowledge connected to the DOT, general functional limitations of disabilities, and a clear awareness of the local labor market. One may become quite accustomed to this process and if the rehabilitation counselor updates the regional labor market data regularly, this may be an enjoyable forensic service.

Other venues exist in which rehabilitation counselors can provide forensic rehabilitation services. For instance, every state in the United States has a Worker's Compensation mechanism (Rubin & Roessler, 2001). These laws were developed following industrialization in the United States. With workers sustaining injuries while on the job, there needed to be protection for the worker and the employers (Rasch, 1985). This line of work uses a rehabilitation counselor's rehabilitation knowledge, abilities, and skills to provide opinions regarding overall employability. Typically, a forensic specialist completes a vocational evaluation, a labor market survey, job placement assistance and expert testimony. A vocational evaluation is a comprehensive document that is created from professional medical records, interviewing data, vocational testing, and is synthesized into a comprehensive document (Upton & Dallas, 2011). This is usually completed for every Worker's Compensation case. This report clearly articulates the rehabilitation counselor's opinions about employability of the worker with a disability and also contains the supporting materials for these opinions. Following a vocational evaluation, a regional labor market survey or job placement services may follow. These two distinct services will identify regional employment options, and will help the injured workers seek and obtain work in regional employment openings, respectively. Ultimately, services provided are completed with relevant expert testimony. Testimony is necessary of all the work so that the documentation can become evidence and be considered by the arbitrator (term that designates a Worker's Compensation judge). The arbitrator's goal of re-employment of the injured worker is a guiding principle all parties work toward.

This type of forensic work has a few additional details to consider, First, the work is adversarial, meaning one is usually involved either on the side of the petitioner (injured worker) or the respondent (the insurance company contracted by the employer). Since there are two sides to every story, you become aligned with one of the sides and your services are based on the knowledge you gain about the injured worker. Generally, typical services include a vocational evaluation, job seeking skills training, job placement assistance, and expert testimony.

All service provided must include clear documentation. Documentation must be objective, apparent, and written with the understanding that everyone involved in the court case (i.e., attorneys, injured workers, and other professionals) will be seeing and relying on this information (Upton & Dallas, 2011).

In addition, for those who are catastrophically injured, a Life Care Plan may be needed (Rasch, 1985). This is a dynamic document that is based on a comprehensive assessment that provides an organized, concise plan for current and future needs (McCullom, 2005). These plans are many times used for persons with brain injury, spinal cord injury, severe burns, or other involvement injuries that are likely to have lifelong residuals. To prepare this work product, extensive collaboration with medical, psychological, rehabilitation professionals, and rehabilitation suppliers take place. Each contributes expertise to quantifying functional limitations and complete group problem solving to eradicate problems and provide estimates for future case. The Life Care Plan presents all relevant medical/psychological issues, outlines current needs, and estimates lifetime costs based on needs deriving from specific functional limitations. Evaluations for marital dissolution cases are also commonplace in the United States and sometimes when these occur, a forensic professional is contacted. A typical referral is when a long term marriage fails and one spouse is professionally successful (e. g., physician or dentist) and the other spouse has acquired a disability (e. g, lupus, fibromyalgia) and he/she has diminished capacity to earn a living. In this case, many times an evaluation is completed with the ultimate goal of quantifying his/her earning potential. The rehabilitation counselor quantifies his/her earning potential and the judge will then make any decision about alimony or spousal support.

Similarly, forensic rehabilitation services may be sought secondary to medical malpractice (West's encyclopedia, 2008), personal injury litigation, or divorce cases (Shahnasarian, 2001). In each context, review of professional documentation, interview data, testing data, and other resources are used for forensic professionals to synthesize opinions that are based upon evidence and professional practices to offer sound findings.

CONCLUSION

This short manuscript introduced readers to forensic rehabilitation services in the United States. It seems clear that it is a new sector of employment that is building upon the professional development of rehabilitation counseling in the United States. As a way to close this manuscript, two insights from Upton (2011) are shared:

Theme 1: Rehabilitation counselor roles continue to evolve and private vocational rehabilitation (forensic) service delivery is a viable career option that an increasing number of rehabilitation counselors are pursuing (Upton, 2011).

These changes seem to be a logical expression of the rehabilitation counselor's professional development, and

Theme 2: Rehabilitation counselors who specialize in private (forensic) vocational rehabilitation meet broad societal needs in American's contemporary culture.

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