

## 50 Ethical Shades of Gray: When Mistakes Happen

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## Session Objectives

- Identify the nature of professional mistakes
- Discuss Social Worker and Agency response
- Use case examples to illustrate the problems and the use of process to address them.
- Identify prevention strategies

Primary Source: Reamer, F (2008), Social Worker's Management of Error: Ethical and Risk Management Issues, Families in Society: The Journal of Contemporary Social Services, 89:(61-68)

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## So, I'm not Randy...

- Or Carol...
- Or Bruce...
- BUT I am happy to be here and this is my contact information:
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## Caveats

- There are often not clear or easy answers to ethical dilemmas. Competing values are involved.
- Knowledge about what to do is often not lacking when ethical violations occur.
- The major failure in ethical problems is failure to seek help in decision-making.



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## Activity: Expectations of Social Workers

### *Pair and Share:*

- What do we expect from ourselves and others as social workers?
- Why is this important?
- Short Discussion



## Common Contributing Factors

- Overlooking critical assessment information
- Providing services in a flawed manner
- Mishandling ethical dilemmas

## The Nature of Professional Error

Professional error can be defined as “failure of a planned action to be completed as intended or the use of a wrong plan to achieve an aim”

(Gallagher, Waterman, Ebers, Fraser, & Levinson, 2004, p. 1002)

## The Nature of Professional Errors

- Unintentional errors
  - Genuine mistakes, inadvertent oversight
  - Often related to confidentiality or inexperience
- Intentional errors
  - Deliberate decisions
  - Can be thoughtful, well meaning, but mistaken
  - Often include boundary violations

## The Nature of Professional Errors

- Worker incompetence
  - Deliberate departure from standards of care
  - Worker impairment
- Clear ethical misconduct
  - Boundary violations
  - Client mistreatment



## Intentional Errors

- Rebecca is a clinical social worker in a community mental health center. One of Rebecca's clients, who has a two year old, has recently become more severely depressed, lost her job and her housing. Rebecca knows the shelter is full so she offered her extra bedroom while they arranged for housing. After three weeks the client refused to leave Rebecca's home. Rebecca is attached to the toddler.

## Unintentional Errors

- Gloria is a clinical social worker in a private agency. She received a request for information with a release. She prepares the documents and faxes them to the agency. Later that day, she receives a call from one of her personal acquaintances stating she received a fax from her that seems to be important information meant for someone else. She also mentions that she knows the client personally.

## Intentional Errors

- Sara is a clinical social worker in a community mental health center. One of Sara's clients reports being harassed on Facebook but only shares some of the screens. Sara suspects the client isn't telling her everything and feels more information would be helpful in guiding the client. She "friends" the client on Facebook in order to monitor and gain more knowledge.



**'It was an amazing moment': Social worker gloats on Facebook over breaking up a family and reveling in the 'massive rollicking' the judge gave the parents**

•Siobhan Condon bragged on social media about court proceedings

•Family court proceedings are normally shrouded in secrecy

•The 41-year-old gave enough detail to identify family in public Facebook post

Read more: <http://www.dailymail.co.uk/news/article-2755853/It-amazing-moment-Social-worker-gloats-Facebook-breaking-family-revelling-massive-rollicking-judge-gave-parents.html#ixzz3GzVimw4Z>



## Professionals' Response to Errors

Social Workers have a duty to respond to errors in ways that protects and minimizes harm to clients.

•NASW Code of Ethics:

“social worker’s primary responsibility is to promote the well being of clients” (p. 7)



## Worker Incompetence/Impairment

Alex was a social worker in a state welfare agency. His responsibilities were to screen, train, and license foster parents. Alex became very friendly with one foster couple when he placed a 16 year old girl in their home. He began playing golf with the dad, joining them for dinner, etc. At one point, Alex even left his two teenagers in their care while he traveled to a conference. Alex knew this was an unusual dual role but felt he was handling it. Later it is discovered that the 16 year old foster girl was pregnant, and his son was the biological father.



## Activity: Pair and Share

Social Workers are typically held to a higher standard of personal conduct

- Pros and Cons
  - How is it good?
  - How is it detrimental?



- Short Discussion

## How are we at conflict?



## Professional Response to Errors

- Providing incomplete information
- Lying
- Avoiding

## Professional Response to Errors

Empirical evidence suggests that professionals who respond to unintentional error in a forthright, conscientious manner may minimize the likelihood they will be sued by disgruntled clients or named in a licensing board and ethics complaint (Kraman, 2001; Mazor, Simon & Gurwitz, 2004)

## Providing incomplete information

- Practitioner withholds key information  

Gloria tells the client the information was faxed to the wrong number but since the person receiving the fax agreed to keep it confidential, she omits that the information went to someone the client knows personally.

## Lying

- Practitioner deliberately gives false information to minimize the action.

Chelsey, a clinical social worker, lies about using an out dated Release of Information when talking to an attorney, which resulted in shared information that was used against the client in a custody dispute.



## Why practitioners fail to respond

- Threat to career, license, livelihood
- Mistrust of employer, investigation
- Embarrassment
- Shame
- Fear
- Fear
- Fear



## Avoiding

- Dodging or evading discussion of the error

Martin failed to complete the documentation necessary for a referral for the client. When the client asks about how long it is taking for the new service to begin, Martin avoids the question by saying, “those things always take longer than we want to go through the system”.



## Do we “shoot our own wounded?”



## Protecting Clients, Practitioners and Agencies

- Not viable or realistic to disclose every single error
  - Harm?
- Serious harmful errors warrant disclosure.

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## Evidence

- Candid disclosure can reduce the financial costs associated with error.
  - Reasonable and/or reduced financial settlements
  - Avoidance of litigation
  - Immunized from negative media publicity

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## Code of Ethics

- “Social workers treat each person in a caring and respectful fashion” (p. 5) and “should not participate in, condone, or be associated with dishonesty, fraud, or deception” (p. 23).

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## Protocol for Management

Reamer suggests:

- Care Partnership Agreement
- Error Investigation Team
- Error Disclosure Team
- Sound Documentation

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## Care Partnership Agreement

Mental Health care is complex and sometimes complicated. We believe that clients are an equal partner in the delivery of care and essential in improving the system. We will do everything we can to provide safe and effective care to you. As our partner, please ask any questions you have about your care, and in particular, please let us know if you observe any mistakes in your

## Error Investigation Team

- Team to explore the extent to which serious errors occurred and practitioners adhered to policies and appropriate procedures. Should include sufficient experience and expertise to investigate errors that may have adverse effects.
- “On call” member to begin process ASAP

## Care Partnership Agreement

care so that we may use this important information as an opportunity to improve how we treat you and all clients. We want to work with you to make the best health delivery system for everyone. Thank you for your help and participation.

(Adapted from Liang, 2002, p. 65)

## Error Disclosure Team

Adverse effects: Errors that cause harm or injury.

According to Reamer:

Serious error should be disclosed to appropriate authorities by:

Senior staff, a client care liaison and a clinically trained individual with expertise related to the error and adverse effects.

## Error Disclosure Team

Liang (2002) states that the provider who “last touched” the client or is most closely connected to the error – should not be a part of the initial disclosure.

## Error Disclosure

Ideally, the clinician would respond to the client’s questions with forthright honesty.

Research indicates that the way in which the practitioner acknowledges the error is often more important than the words that were used (Levinson, 1994)

## Error Disclosure

Client should be offered the following:

1. an explicit statement that an error occurred.
2. a basic description of what the error was and why it occurred.
3. an apology

## Error Disclosure

Critical Components of Communication

Sensitivity  
Transparency  
Honesty  
Trust

## Sound documentation

- Maintain descriptive disclosure record
  - Key events (where, who)
  - Consequences
  - Summary of contacts

## Error Prevention Protocol

- Review and assess adequacy of current practices
  - Supervision
  - Practices, policies and procedures that are current? (Media, technology, etc)

## Error Prevention Protocol

- Identify pertinent risks in practice setting
  - Client population
  - Treatment approach
  - Setting
  - Staffing pattern
  - Program design

Carol and Randy would add – Agency culture

## Design a practical strategy to modify current practices as needed

- What steps are needed to protect clients, prevent disgruntled parties from filing ethics complaints, and prevent lawsuits.
  - Training
  - Supervision
  - Policies
  - Resources
  - Develop time table

## Monitor the implementation of this quality assurance strategy

- Plan for monitoring
- Indicators of success
- Assessment process

## Strategies for Staying out of Trouble Legally and Ethically

- Stay out of your client's bed
- Practice within your scope
- Never falsify records
- Seek supervision
- Stay away from theories that are not supported by evidence (repressed memory, past-life therapy, rebirthing, reparative therapy) or treatment approaches you are not trained in
- Keep current on best practice
- Don't blab about your clients in public



## Legal Implications

### REALITY

Fulfilling the ethical obligation to acknowledge errors may be accompanied by legal risk.

## Who handles ethical violations in Minnesota?

- State licensing board:  
<http://mn.gov/health-licensing-boards/social-work/>
- Standards of practice:  
<http://mn.gov/health-licensing-boards/social-work/licensees/standardsofpractice.jsp>

## MN cont.

- **148E.210 PROFESSIONAL AND ETHICAL CONDUCT.**
- The board has grounds to take action under sections [148E.255](#) to [148E.270](#) when a social worker:
  - (1) engages in unprofessional or unethical conduct, including any departure from or failure to conform to the minimum accepted ethical and other prevailing standards of professional social work practice, without actual injury to a social work client, intern, student, supervisee, or the public needing to be established;
  - (2) engages in conduct that has the potential to cause harm to a client, intern, student, supervisee, or the public;
  - (3) demonstrates a willful or careless disregard for the health, welfare, or safety of a client, intern, student, or supervisee; or
  - (4) engages in acts or conduct adversely affecting the applicant or licensee's current ability or fitness to engage in social work practice, whether or not the acts or conduct occurred while engaged in the practice of social work.

## Who handles ethics violations in North Dakota?

- State licensing board <http://www.ndbswe.com/>
- Code of ethics
  - <http://www.legis.nd.gov/information/acdata/pdf/75.5-02-06.1.pdf>
- Q: **What are my rights as a client?**
- A: You have the right to professional, ethical treatment regardless of age, sex, race, color, religion, national origin, disability, political affiliation, sexual practice, or marital status. You have the right to a clear description of services, fees, and billing. Information provided to a social worker is confidential. Client records and other client information may not be released without the client's written permission, except as otherwise provided by state and federal law.

## MN. cont.

- Filing a complaint: <http://mn.gov/health-licensing-boards/social-work/public/fileacomplaint.jsp>

If you have concerns about services provided by a licensed social worker, including the examples listed below or other issues, you can submit your complaint to the Board.

- abused or mistreated you in any way - verbally, financially, or sexually
- lied to or misled you in providing services or billing
- released information without your consent (except as allowed by law)
- did not provide appropriate treatment
- did not practice safely and competently
- developed a relationship that interfered with treatment

## Who handles ethics violations in North Dakota?

- Q: **How do I file a complaint against a licensed social worker?**
- A: If you believe your rights have been violated by a social worker, you may file a written complaint with the North Dakota Board of Social Work Examiners. If you wish to file a complaint, submit the complaint form or if you have questions about the procedure, contact the board office.

## Common Ethical Blind spots

Social Workers must understand and follow ethical standards. Some blind spots are:

- #1. [Unintentionally] imposing personal values, attitudes, beliefs and behaviors
- #2. [Unconscious] stereotyping and prejudice
- #3. The belief that ethical behavior is commonsense [because helping professionals are ethical people]
- #4. Using work and clients to meet personal needs

## #2. [Unintentionally] Stereotyping

- Everyone has biases
- Stereotypes are automatic, deeply ingrained, and difficult to change
- If we think we “have arrived” we probably haven’t
- **Individuation** which focuses on the individual attributes of a particular patient versus **categorization** in which the provider sees the patient as a member of his or her group  
– (*Seeing Patients* by Augustus White, 2011).

## #1. Values

Confusion and/or conflict may exist between values, best practices, and professional responsibility

- Societal values
- Personal values
- Religious beliefs
- Moral standards
- Laws
- Professional values
- Ethical standards

## Stereotyping (cont)

- We must candidly assess some of our most private and least acknowledged attitudes
- Recognize and appreciate differences
- **Culturally competent** care & cultural self-awareness enable health professionals to identify entrenched prejudices and stereotypes
- We must understand ourselves so we can understand and empathize with others

### #3. Social Workers are Ethical People

Social Workers are people first with :

- A view of their own experiences, feelings, thoughts, and behaviors
- Own sense of reality
- Personal needs: love, safety, shelter, intimacy, belonging, and self worth (Maslow)  
*[the need to feel successful and important, the need to know that we matter, the need to know we are making a difference, the need to hear we are good (Kushner)]*
- Human instincts, desires...

Social Workers are like Zebras – we are vulnerable when alone



### #4. Personal Needs

Self-awareness & self-care

- Clarify & understand personal values & needs.
- Cultural competence: Make biases evident since they often act below the level of consciousness - and influence our thinking and the diagnosis and treatment of clients.
- If we understand our values, needs, and prejudices and face them honestly we can overcome them instead of allowing them to overcome us and ultimately impact relationships with clients and compromise standard of care.
- Be aware of signs of impairment and/burnout and seek help for problems.

Go Forth and Think Ethically!

- Engage in a carefully considered ethical decision-making process!



## Resources

- Congress, Elaine P. (2000). *What Social Workers Should Know About Ethics: Understanding and Resolving Practice Dilemmas*. Advances in Social Work, Volume 1, 1.
- NASW technology standards  
<http://www.socialworkers.org/practice/standards/NASWTechnologyStandards.pdf>
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## Resources

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