



Practice Notes:

Where Do I Stand?: Understanding the Relationship Between the College and Your Employer

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Practice Notes is designed as an educational tool to help Ontario social workers, social service workers, employers and members of the public gain a better understanding of recurring issues dealt with by the Complaints Committee that may affect everyday practice. The notes offer general guidance only and members with specific practice inquiries should consult the College, since the relevant standards and appropriate course of action will vary depending on the situation.

Recurring issue:

Members employed by an organization at times seek clarification about the relationship between the College and their employer. The two interact in a number of ways:

- Registration in the College is a requirement of many employers, who may seek verification of a member's registration on a yearly basis.
- Employers who terminate the employment of a member of the College for reasons of "professional misconduct", "incompetence" or "incapacity" are required to file a written report with the Registrar of the College.¹
- Employers refer to the Code of Ethics and Standards of Practice to determine reasonable expectations of the social workers and social service workers they employ. The standards of practice set out the minimum standards of professional practice and conduct and can be used by employers to inform practices and set policies.
- Employers use the scopes of practice for social work and social service work, found in the Standards of Practice Handbook, to develop appropriate job descriptions.

For the most part, the standards of practice and employer requirements are complementary. However, there may be times when there is an apparent conflict between the two. When this situation arises, it is complicated by the fact that the College does not regulate employers and accordingly

has no authority to set requirements for employers. Nevertheless, the following interpretation found within the Standards of Practice is important to note:

"If there is a conflict between College standards of practice and a College member's work environment, the College member's obligation is to the 'Ontario College of Social Workers and Social Service Workers Code of Ethics' and the 'Standards of Practice Handbook'."²

The following scenario illustrates such a practice dilemma:

The administrator of a children's mental health centre receives a request for information about a former client from a lawyer. The client had been seen by a former social work employee of the centre, who had documented the client's disclosure of past abuse at the hands of her teacher. The administrator directed the current social worker to respond to the request for information in a "non-committal" way, suggesting that the centre did not have the requested information. The administrator admitted to being unsure about whether client consent was required to release the information.

The current social worker contacted the College to discuss her discomfort, that is, that the administrator, who was not a regulated professional, directed the social worker to respond on her behalf, in regard to a report not authored by the social worker herself, and moreover, in a way that was misleading.

A review of the standards of practice with the social worker led to a discussion of the following:

"College members do not make statements in the record, or in reports based on the record, or issue or sign a certificate, report or other document in the course of practising either profession that the member knows or ought reasonably to know are false, misleading, inaccurate or otherwise improper."³

It is also an act of professional misconduct for a member to give information about a client to a person other than the client or his or her authorized representative except,

- i. with the consent of the client or his or her authorized representative,
- ii. as required or allowed by law, or
- iii. in a review, investigation or proceeding under the Act in which the professional conduct, competency or capacity of the member is in issue and only to the extent reasonably required by the member of the College for the purposes of the review, investigation or proceeding. ⁴

The social worker was encouraged to discuss the relevant standards of practice and her professional obligations with the administrator, who was also the social worker's supervisor, and to suggest obtaining a legal opinion regarding the need for client consent. Some time later the social worker contacted the College to report that she documented her concerns and her professional obligations in a letter to her supervisor, who subsequently agreed to assume responsibility for addressing the request for information herself.

A conflict between the College standards of practice and the work environment is also illustrated in the following example:

A member who works for a crisis phone line contacts the College, concerned about her supervisor's plan to periodically audio tape her phone contacts with clients for supervisory purposes. Her supervisor directed that clients not be informed of this possibility. His rationale was that clients would not feel comfortable disclosing personal information where there was a possibility that the phone call would be tape recorded, and that, for the most part, clients are anonymous callers.

The following interpretations from the standards of practice are relevant to this issue:

"College members inform clients early in their relationship of the limits of confidentiality of information. In clinical practice, for example, when social work service or social service work service is delivered in the context of supervision or multi-disciplinary professional teams, College members explain to clients the need for sharing pertinent information with supervisors, allied professionals and para professionals, administrative co-workers, social work or social service work students, volunteers and appropriate accreditation bodies." ⁵

"College members obtain clients' informed consent before photographing, audio or video taping or permitting third

party observation of clients' activities. Where case scenarios are presented for research, educational or publication purposes, client confidentiality is ensured through the alteration and disguise of identifying information." ⁶

Subsequent to the social worker discussing her accountability to the College and the standards of practice, her supervisor contacted the College himself. He expressed concern about losing social work staff due to the fact that this practice would involve a breach of their professional standards. He indicated a willingness to resolve the matter both for the clients of the agency and his employees.

In the previous case examples, the practices described by the College members were clearly a breach of the standards of practice. Other situations will be less clear cut, and will require an interpretation of the standards, using professional knowledge and judgement. Consider the following:

A community health centre receives referrals for two people who are married to each other and are each seeking case management services. Both have a serious mental illness, requiring medication as well as counselling, support and referral to community resources. The social worker is assigned both of these clients to her caseload. She expresses concerns about the appropriateness of this but is directed to proceed by her employer who has no clinical experience.

The following standards of practice were discussed with the social worker:

"College members and clients participate together in setting and evaluating goals. A purpose for the relationship between College members and clients is identified." ⁷

"Goals for relationships between College members and clients include the enhancement of clients' functioning and the strengthening of the capacity of clients to adapt and make changes." ⁸

"College members do not engage in professional relationships that constitute a conflict of interest or in situations in which members ought reasonably to have known that the client would be at risk in any way. College members avoid or declare conflict of interest situations. College members do not provide a professional service to the client while the member is in a conflict of interest." ⁹

"College members avoid conflicts of interest and/or dual relationships with clients or former clients, or with students, employees and supervisees that could impair members' professional judgement or increase the risk of

exploitation or harm to clients.”¹⁰

Potential scenarios and the inherent risks of assuming the role of case manager for two married individuals were discussed: Supposing over time, the goal of one of the individuals is to leave the marriage, while the goal of the other is to continue the marriage. How could the social worker assist both her clients who have conflicting goals? How could the social worker maintain confidentiality of client information, should the individuals not share information with each other, where the information in question clearly impacts on the social worker's ability to continue to provide services in a manner that meets the best interests of both clients? How could the social worker avoid destroying the trust of one or both of her clients? How could the social worker avoid favouring the interests of one of the clients over the interests of the other?

A member is required to perform an analysis of the risks involved, and employ professional judgement in order to make a sound and ethical decision about whether it is in the client's best interest to accept a referral. This situation was fraught with potential risks. In the end, the social worker accepted the referral of only one of the individuals and offered to take on another client, unrelated to the first one. Her employer was unhappy with this decision, but declined the social worker's suggestion of contacting the College to discuss the standards of practice and the professional obligations of College members.

There may be times when a member believes that his or her work environment is in conflict with the College standards of practice but has expectations of the College that go beyond its jurisdiction.

For example, a social service worker contacts the College to complain that her employer is “going against” the College as he will not provide funding for her and her colleagues, who are also College members, to attend conferences. Rather her employer has asked them to perform research and present to one another on topics related to their practice.

While the standards of practice do require members to “remain current with emerging social work or social service work knowledge and practice relevant to their areas of professional practice”¹¹ and to “maintain current knowledge of policies, legislation, programs and issues related to the community, its institutions and services in their areas of practice”¹² the standards do not dictate how this is accomplished. It is the professional responsibility of each member to ensure that his or her professional development is ongoing. While an employer's support is most helpful in accomplishing this, the College has no authority to compel an employer to provide

educational opportunities or funding for College members. In this situation the member was encouraged to identify her learning needs and to identify how she might address them, regardless of what resources, if any, her employer provides.

In summary, when there is a conflict between College standards and a College member's work environment, the College member's obligation is to comply with the “Ontario College of Social Workers and Social Service Workers Code of Ethics” and “Standards of Practice Handbook”. A range of situations can arise, which include those which are a clear breach of the College standards, those which require professional knowledge and judgement in interpreting the standards, and those which go beyond the jurisdiction of the College. When a conflict arises, members are encouraged to identify the relevant standards of practice, to discuss these and their professional obligations with the appropriate person(s) in the organization and to advocate for safe and ethical practice, in the best interests of clients. It may also be useful to document concerns and actions taken, or to put concerns in writing to one's supervisor or manager. College staff members are also available to communicate with employers who are interested in gaining a better understanding of the College's role and the obligations of its members.

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Footnotes

¹ *For more information about Mandatory Reporting, please refer to “FAQs: Mandatory Reports to the College” on the College website www.ocswssw.org.*

² *OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle II, Competence and Integrity, Interpretation 2.2.10.*

³ *OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle IV, The Social Work and Social Service Work Record, Interpretation 4.1.7. Breaching this standard is also specifically defined as an act of professional misconduct under the Professional Misconduct Regulation made under the Social Work and Social Service Work Act, O.Reg. 384/00, paragraph 21 of section 2.*

⁴ *Professional Misconduct Regulation made under the Social Work and Social Service Work Act, O.Reg. 384/00, paragraph 11 of section 2.*

⁵ *OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle V, Confidentiality, Interpretation 5.2.*

⁶ OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle V, Confidentiality, Interpretation 5.4.

⁷ OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle I, Relationship With Clients, Interpretation 1.1.

⁸ OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle I, Relationship with Clients, Interpretation 1.1.1.

⁹ OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle II, Competence and Integrity Interpretation 2.2.1.

¹⁰ OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle III, Responsibility to Clients Interpretation 3.7.

¹¹ OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle II, Competence and Integrity, Interpretation 2.1.2.

¹² OCSWSSW Code of Ethics and Standards of Practice, 2000, Principle II, Competence and Integrity, Interpretation 2.1.3.

Please note that any references to the College's Standards of Practice in this article refer to the first edition of the Standards. The second edition of the Standards of Practice did not come into effect until July 2008.