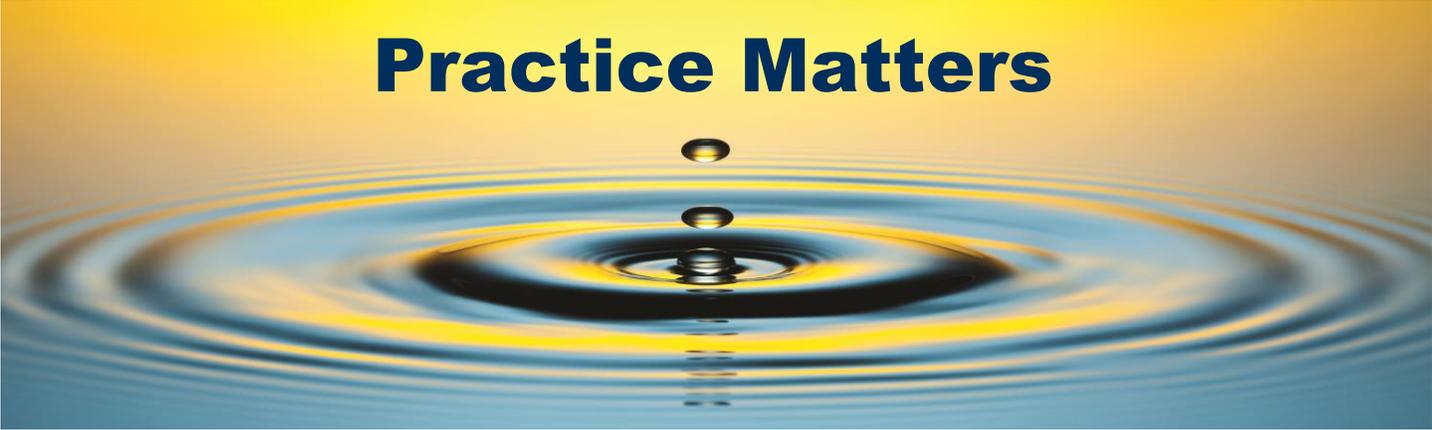


Practice Matters



Practice Matters was created as an educational resource for social workers in Newfoundland and Labrador. It is intended that this resource will generate ethical dialogue and enhance critical thinking on issues that impact social work practice. Practice Matters is provided for general information.

The Ethics of Client Confidentiality

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The Canadian Association of Social Workers (CASW) (2005) Code of Ethics outlines six core values social workers must uphold in their practice. Value 5: Confidentiality in Professional Practice is a value that social workers work diligently to promote and maintain. Confidentiality is a “cornerstone of professional social work relationships” (CASW, 2005a, p. 7), and on the surface, the protection of client confidentiality may be perceived as being less complicated than other ethical responsibilities (e.g., maintaining professional boundaries). Clients are informed on how their information will be recorded, who has access, and the limits to confidentiality. However, issues pertaining to client confidentiality can be fraught with ethical complexities that challenge social workers in how best to address these intricacies in practice, and ethical decision-making is a central component. This edition of Practice Matters will address the ethics of client confidentiality, highlight practice considerations, and explore how the value of client confidentiality intersects with other core values and standards outlined in the [CASW \(2005\) Code of Ethics](#) and [Newfoundland and Labrador College of Social Workers \(NLCSW\) \(2020\) Standards of Practice](#). NLCSW practice resources will also be highlighted.

Ethical Decision-Making

Reamer (2021) notes: “Although many ethical issues are plain, simple, and obvious, some are not. To detect them, social workers must pay extraordinarily close attention. They must also have a keen understanding of what constitutes an ethical issue and ways to address them systematically” (p. 30).

Ethical decision-making is a process of thinking through all the ethical complexities of a dilemma, and making decisions that are in a client's best interest and in keeping with one's ethical and professional responsibilities. As noted in the CASW (2005) Code of Ethics, "social workers are educated to exercise judgment in the face of complex and competing interests and claims. Ethical decision-making in a given situation will involve the informed judgment of the individual social worker" (p. 3). This must include a thorough knowledge and understanding of one's code of ethics and standards of practice. Importantly, the June 2021 publication of Practice Matters focused on the [Importance of Knowing Your Code of Ethics and Standards of Practice](#). NLCSW has also developed a document [Ethical Decision-Making in Social Work Practice](#) to guide social workers through the ethical decision-making process.

Case Scenarios

Case Scenario 1

Mary RSW is employed by an organization that provides clinical services to adults. Client records are stored in a central electronic filing system. Mary is concerned other staff may have access to her client files which she says contains confidential and sensitive client information, and wonders if it is ethical to keep separate/private client notes in a locked cabinet in her office.

Client confidentiality and documentation are addressed in the [CASW \(2005\) Code of Ethics](#), [CASW \(2005\) Guidelines for Ethical Practice](#) and [NLCSW \(2020\) Standards of Practice](#).

CASW (2005) Code of Ethics

Value 5: Confidentiality in Professional Practice

"Social workers respect the importance of the trust and confidence placed in the professional relationship by clients and members of the public" (p. 7).

"Social workers respect the client's right to confidentiality of information shared in a professional context" (p. 7).

CASW (2005) Guidelines for Ethical Practice

Section 1.5 – Protect Privacy and Confidentiality

"Social workers protect the confidentiality of clients' written and electronic records. Social workers take reasonable steps to ensure that clients' records are stored in a secure location and that clients' records are not available to others who are not authorized to have access" (p. 8).

Section 1.7 – Maintenance and Handling of Client Records

“Social workers maintain one written record of professional interventions and opinions, with due care to the obligations and standards of their employer and relevant regulatory body” (p. 9).

“Social workers are encouraged to take care to report only essential and relevant details” (p. 9).

“Where records are shared across professions or agencies, information is recorded only to the degree that it addresses clients’ needs and meets the requirements of an employer or professional standards of practice” (p. 9).

NLCSW (2020) Standards of Practice

Standard 4: Informed Consent

“Social workers provide clients with information on how social work records will be maintained and who will have access to these records” (p. 5).

Standard 5: Documentation and Recording

“Documentation of social work interventions with clients are contained in one master file. The file may be electronic, paper or both” (p. 5).

“Social work records are formatted to facilitate monitoring and evaluation of the social work intervention (s)” (p.6).

“Social work records should contain all information that is clinically relevant and significant to the service delivery” (p. 6).

After reviewing the code, guidelines and standards, Mary is encouraged to reflect on the following questions:

- What would be the purpose for having a separate file?
- Does the electronic record contain all the necessary information relevant to the delivery of services?
- Would there be a link made between the electronic file and the paper file to ensure that it is one master file?
- How might having a separate file impact continuity of care?
- What is the documentation policy and requirements of the agency?
- How are clients informed about the policy and practice pertaining to documentation, storage, and access?

- What protections are put in place by the organization to prevent unauthorized access to electronic records? Is there anything that needs to be changed or enhanced?

A client record is a legal document, and social workers have a professional responsibility to document client interventions and service delivery. Social workers document relevant client information in keeping with agency policy and assess what information is necessary for the provision of services and continuity of care in one master file. Keeping a separate file from the main client file, or jot notes that contain additional client information, is not recommended. Client information that is not relevant to service delivery, or a legislative or agency requirement, generally does not need to be documented. It is also important that social workers provide clients with information on how information is recorded, who has access to the information within the circle of care, how records are maintained and stored, and steps that are taken within the agency to protect personal health information. If a social worker is concerned about access to client information outside the circle of care, addressing this through the appropriate agency channel to identify issues and solutions for change is important.

NLCSW has a wealth of resources pertaining to documentation and confidentiality including:

- [Standards for Social Work Recording Explanatory Document](#)
- Documentation Matters: [Tip 1 \(How should social workers respond when a client asks not to record something in their file\)](#), [Tip 4 \(What things should I consider in the documentation of informed consent\)](#), and [Tip 5 \(How do I know if I am recording too much or too little\)](#).
- [Informed Consent and Documentation Self-Reflection Tools](#)

Case Scenario 2

Carrie RSW works in an emergency department. A client was brought in following a car accident. The client is unconscious, and a drug test reveals opioids in his system. A family member tells the social worker that the client is on parole and that he broke his conditions of parole by using drugs. The family member is distraught that this will result in more prison time for their loved one. Carrie wonders if she has a duty to report this information?

The ethical dilemma in this scenario is whether to report client information (without the client's consent) as reported by a family member, or maintain the confidentiality of the client's health information. In thinking through the complexities, Carrie reviews the [NLCSW Ethical Decision-Making in Social Work Practice](#) guideline document, and consults the [CASW \(2005\) Code of Ethics](#) and [CASW \(2005\) Guidelines for Ethical Practice](#) to determine applicable sections:

CASW (2005) Code of Ethics

Value 1: Respect for the Inherent Dignity and Worth of Persons

“Social workers uphold each person’s right to self-determination, consistent with that person’s capacity and with the rights of others” (p. 4).

Value 5: Confidentiality in Professional Practice

“Social workers only disclose confidential information with the informed consent of the client or permission of client’s legal representative” (p. 8).

“Social workers may break confidentiality and communicate client information without permission when required or permitted by relevant laws, court order or this *Code*” (p. 8).

CASW (2005) Guidelines for Ethical Practice:

1.3.1 – “Social workers promote the self-determination and autonomy of clients, actively encouraging them to make informed decisions on their own behalf) (p. 4).

1.5 – “Social workers protect clients’ identity and only disclose confidential information to other parties (including family members) with the informed consent of clients or the clients’ legally authorized representatives, or when required by law or court order... The general expectation that social workers will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or others (see section 1.6 regarding protection of vulnerable members of society)” (p. 6).

Carrie then reviews the [NLCSW \(2020\) Standards of Practice](#) and highlights the following additional standards:

“Social workers must be familiar with the laws and regulations relevant to their practice” (p. 10).

“Social workers comply with provincial and federal legislation that is applicable to their practice” (p. 10).

“Social workers seek employer consultation and review agency policies and procedures pertaining to legislative requirements impacting their practice” (p. 10).

Following a review of the code, guidelines and standards, Carrie determines that disclosure of client information is not necessary to prevent serious, imminent, and foreseeable harm to the client or others. Her next step is to obtain legal guidance on whether a duty to report this information, and to whom, exists? Is there legislation that applies? Organizations have processes in place where this

legal consult can occur (i.e., quality and risk). BMS, the professional liability insurer through CASW, also offers free legal/ethical consultations for members with professional liability insurance. Following this, Carrie plans to seek information on any organizational policies that exist pertaining to the release of a client's health information. A consultation with her supervisor/manager would also be advised.

The NLCSW has also produced a wealth of additional resources that Carrie can review in thinking through this dilemma:

[Ethical Compass: The Ethics of Disclosing Client Information](#)

[Practice Matters: Accountability in Professional Practice](#)

[Practice Matters: Intersections between Social Work Practice and Legislation](#)

[Practice Matters: Importance of Knowing Your Code of Ethics and Standards of Practice.](#)

[Practice Matters: Informed Consent - A Professional and Ethical Responsibility](#)

[Documentation Matters: Tip #6 How should I handle requests for the release of client information?](#)

Case Scenario 3

Mark RSW is providing clinical services to a 15-year-old youth. During a recent session, the youth disclosed that he has used marijuana to help ease his anxiety. He asks that Mark not share this information with his parents. Mark receives a phone call from the client's mom who asks how things are going. Mark is wondering if he should let mom know about the marijuana use.

In thinking through this dilemma, Mark considers issues related to capacity and consent, client risk, and confidentiality. The following sections from the code, guidelines and standards are important.

CASW (2005) Code of Ethics:

Value 1: Respect for the Inherent Dignity and Worth of Persons

“Social workers uphold each person's right to self-determination, consistent with that person's capacity and with the rights of others” (p. 4).

“Social workers respect the client's right to make choices based on voluntary, informed consent” (p. 4).

Value 5: Confidentiality in Professional Practice

“Social workers respect the client's right to confidentiality of information shared in a professional context” (p. 7).

“Social workers may break confidentiality and communicate client information without permission when required or permitted by relevant laws, court order or this Code” (p. 8).

“Social workers demonstrate transparency with respect to limits to confidentiality that apply to their professional practice by clearly communicating these limitations to clients early in their relationship” (p. 8).

CASW (2005) Guidelines for Ethical Practice:

1.5.5 “When social workers provide services to children, they outline for the child and the child’s parents (where appropriate) their practices with respect to confidentiality and children. Social workers may wish to reserve the right to disclose some information provided by a young child to parents when such disclosure is in the best interest of the child. This should be declared prior to the first session with a child” (p. 7).

1.3.3 “Social workers who have children as clients determine the child’s capacity to consent and explain to the child (where appropriate), and to the child’s parents/guardians (where appropriate) the nature of the social worker’s relationship to the child and others involved in the child’s care” (p. 4).

NLCSW (2020) Standards of Practice:

Standard 6: Confidentiality - “When working with minors:

- Social workers are aware of their legal and ethical responsibilities as it relates to consent, treatment and service delivery.
- Social workers clarify the limits to confidentiality with the client and their parent, guardian or legal representative” (p. 7).

In addition to the code, guidelines and standards, Mark reviews NLCSW’s [Informed Consent with Children and Youth: Practice Guidelines for Social Work](#) that provides guidance for social workers working with children and youth, and consults with his manager. Mark reviews the information that was covered in the informed consent process with the client and engages in a dialogue with the youth around appropriate next steps based on the youth’s capacity to consent and a thorough risk assessment.

Case Scenario 4

Karen RSW is excited about her work and progress with a client. She is part of an online collegial Facebook group. One evening, Karen posts about her work with the client and gives some details about the client’s situation. She is careful not to disclose the name of the client. One of Karen’s

colleagues recognizes the situation and is certain that Karen's client is her relative. She is quite upset that Karen revealed this information on Facebook and reports this to Karen's supervisor. Karen is distraught and does not feel that she broke client confidentiality.

This is an interesting scenario, and one that may not be as uncommon as we think. As social beings, there is a tendency for us to want to share our work, the successes, and the frustrations. However, this scenario raises some interesting questions.

1. What was Karen's intent for posting this information on-line?
2. Is it ethical that Karen disclosed client information without disclosing the client's name? Does the post impact on client confidentiality and privacy?
3. Whose needs are being met by the posting? How might Karen's client react if they were to see this post?
4. Does it make a difference that it was posted on a Facebook group with colleagues? How did other colleagues react?
5. What if the post was a negative commentary on her work with a client?

The purpose of posting information on social media is generally to share information and invite commentary. Even though Karen posted to a private group, this does not guarantee privacy, and the information can be disclosed and shared beyond its intended purpose. Karen therefore needs to reflect on the level of professional disclosure that is appropriate for social networking sites, which would also be important to discuss in the supervisory session.

Importantly, the following sections of the CASW (2005) Guidelines for Ethical Practice, NLCSW (2020) Standards of Practice and [NLCSW \(2021\) Technology Use in Social Work Practice](#) provide guidance:

CASW (2005) Guidelines for Ethical Practice:

- 1.1.1 "Social workers maintain the best interest of clients as a priority, with due regard to the respective interests of others" (p. 3).
- 1.5 "Once information is shared or observed in a professional context, standards of confidentiality apply. Social workers protect clients' identity and only disclose confidential information to other parties (including family members) with the informed consent of clients or the client's legally authorized representatives, or when required by law or court order" (p. 6).

NLCSW (2020) Standards of Practice

Standard 6: Confidentiality

“Social workers ensure the confidentiality of client information obtained through the social work relationship” (p. 7).

“Social workers disclose client information to others with documented informed consent from the client” (p. 7).

NLCSW (2021) Technology Use in Social Work Practice”

“When using personal or professional social networking platforms, social workers should not post or share client information. Importantly, Kolmes (2009) notes that even if client information is posted without disclosing a person’s name, age, or ethnicity, given the nature of the public forum, this may not be enough to protect privacy and confidentiality” (p.10).

While it was not Karen’s intention to cause client harm or breach client information, when posting any professional information on social media, a helpful strategy is always ‘pause before posting’. It is important to reflect on one’s decision making in light of ethical and professional responsibilities pertaining to client confidentiality, and how this intersects with one’s other professional responsibilities to maintain professional boundaries and professionalism to ensure the integrity of the social worker-client relationship is not compromised.

Conclusion

This edition of Practice Matters highlighted some of the ethical complexities social workers may experience as it relates to client confidentiality. Each situation and/or dilemma is unique, and going through a process of ethical decision-making is important. Social workers engage in open dialogue on the ethical issues, seek collegial consultation, understand one’s ethical and professional responsibilities, and review pertinent practice resources. Taking these steps will enable social workers to make sound ethical decisions in the best interests of clients and in keeping with ethical standards. NLCSW practice resources were shared throughout the document and important questions for consideration were also raised. All NLCSW resources can be accessed at www.nlcsw.ca

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