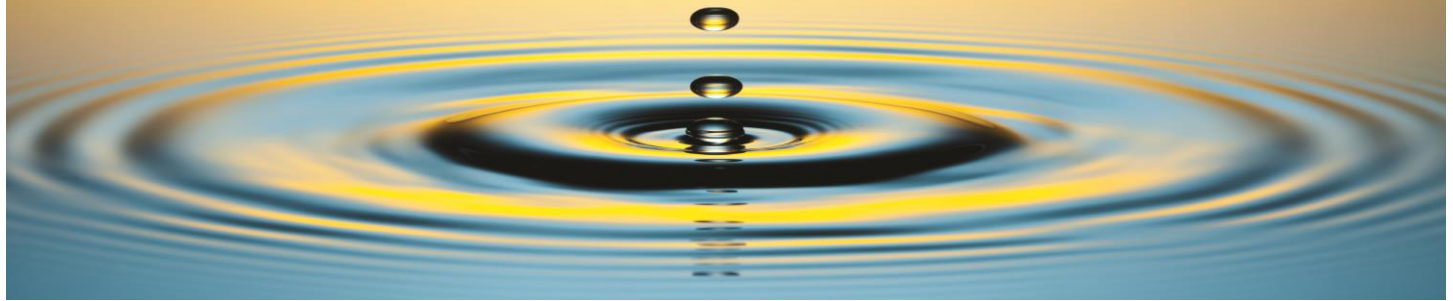


Newfoundland & Labrador Association of

Social Workers

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.

Informed Consent: A professional and ethical responsibility

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Social workers have an ethical and legal responsibility to seek informed consent from clients prior to the delivery of services and throughout the duration of the social worker-client relationship. When client participation in a service or program is required by law or court order, social workers engage clients in decision-making to the greatest extent possible. This edition of Practice Matters will explore the use of informed consent in social work practice.

What is Informed Consent?

Informed consent is defined in the CASW Code of Ethics (2005) as a “voluntary agreement reached by a capable client based on information about foreseeable risks and benefits associated with the agreement (e.g., participation in counselling or agreement to disclose social work report to a third party)” (p. 10). The Social Work Dictionary (2014) defines informed consent as “the granting of permission by the client to the social worker and agency or other professional person to use specific intervention, including diagnosis, treatment, follow-up and research. This permission must be based on full disclosure of the facts needed to make the decision intelligently. Informed consent must be based on knowledge of the risks and alternatives...” (p. 216).

Informed consent is integral to the therapeutic alliance between a client and social worker, and is in keeping with a client’s right to self-determination, autonomy, dignity, privacy and respect. The following ethical principles as outlined in the CASW Code of Ethics (2005) are important:

- Social workers respect the unique worth and inherent dignity of all people and uphold human rights.
- Social workers uphold each person's right to self-determination, consistent with that person's capacity and with the rights of others.
- Social workers respect the client's right to make choices based on voluntary, informed consent.

According to Reamer (2003) "the informed consent process is one of the clearest expressions of social workers' respect for clients' rights". This is also in keeping with the ethical value of integrity in social work practice.

There are two important elements captured in the definitions of informed consent. Firstly, consent must be given voluntarily, without pressure or bias. Holman (2012) notes that "practice with clients based on informed consent implies a partnership with clients – working together to make the best decisions possible, according to the wishes/values of the client and using the social worker's expert information" (para. 2).

Secondly, capacity is extremely important. In order for informed consent to be valid, the client must have the capacity to provide consent. The CASW Code of Ethics (2005) defines capacity as "the ability to understand information relevant to a decision and to appreciate the reasonably foreseeable consequences of choosing to act or not to act" (p. 26). The following sections from the CASW Guidelines for Ethical Practice (2005) are important:

- Social workers promote the self-determination and autonomy of clients, actively encouraging them to make informed decisions on their own behalf (1.3.1).
- Social workers evaluate a client's capacity to give informed consent as early in the relationship as possible (1.3.2).

What Should Informed Consent Include?

Informed consent should include all the information a client needs to make a reasonable decision on whether to access social work services. Addressing the limits to confidentiality is a significant part of informed consent. However, it is important to recognize that informed consent extends beyond the provision of information on how and when client information will be disclosed or shared.

Section 1.3.4 of the CASW Guidelines for Ethical Practice highlights the following areas to be addressed by social workers as part of the informed consent process:

- the nature of the social work service being provided

- the recording of information and who will have access to such information
- the purpose, nature, extent and known implications of the options open to them
- the potential risks and benefits of proposed social work interventions
- their right to obtain a second opinion or to refuse or cease service (recognizing the limitations that apply when working with involuntary clients)
- the client's right to view professional records and to seek avenues of complaint
- the limitations on professional confidentiality

It is important to note that the client's right to view professional records should be done in accordance with provincial legislation governing access to records.

While providing information on the risks and benefits of the proposed social work interventions is essential in obtaining informed consent, social workers should also engage clients in dialogue about the risks/benefits of not engaging in social work interventions (CASW, 2007).

Another element that is fundamental to the informed consent process is the provision of information pertaining to the termination of the social worker-client relationship. The concept of termination is not something that should be left until the last session. Clients will need information on how long the therapeutic intervention will likely take and how termination will be handled.

It is also important for social workers to provide clients with information pertaining to their use of technology in practice. This may include policies on the use of videoconferencing, telephone consultations, and texts or e-mails. Social workers should also share their social media policies with clients. For example, it may be advantageous at the beginning of the therapeutic relationship to let clients know that you do not accept Facebook friend requests from clients or former clients.

Deciding what information to share with a client is "based on the 'reasonable person' standard – what an ordinary, reasonable person would need and want to know about what is being proposed in order to make a decision" (Holman, 2012, para. 4). Social workers use professional judgment and share information relevant to the context of practice and client needs; balancing this information so as not to overwhelm the client and impede decision-making. Informed consent also requires that information be provided in a manner that is easily understood by the client and culturally appropriate.

As capacity can change over time and fluctuate based on a number of factors, it is important that social workers continue to assess capacity throughout the social worker-client relationship as necessary for informed consent to be achieved. It is also important that social workers obtain consent relevant to each decision (i.e., use of a therapeutic approach, sharing of information to a third

party, referral to another professional, etc.) rather than a general or ambiguous consent form that may be used by an agency or the social worker.

Case Scenarios

The following case scenarios will explore the issue of informed consent within the context of social work practice. These scenarios are designed to generate further dialogue and discussion amongst social workers across diverse fields of practice.

Scenario 1

Kaitlyn, RSW works in the area of mental health. She recently obtained certification in the use of Eye Movement Desensitization and Reprocessing (EMDR). She feels that many of her current clients would benefit from this therapeutic approach. What does Kaitlyn need to consider in relation to informed consent?

Social workers have a professional responsibility to discuss with clients their theoretical orientation and use of treatment interventions (e.g., solution focused therapy, cognitive-behavioral therapy, etc.) during the initial stage of the social worker-client relationship and throughout the relationship as needed. Social workers using complementary and adjunct therapies and techniques must also inform clients about these specific modalities. In 2011, the NLASW released a guideline document for registered social workers using complementary and adjunct therapies and techniques in practice. It highlighted the need for social workers to:

- engage in a process of clear informed consent with the client
- determine that the form of intervention is in the best interest of the client
- clearly assess personal competence to engage in the use of the specific therapy or technique
- maintain appropriate professional boundaries

Prior to introducing or using complementary and adjunct therapies and techniques in practice, the informed consent of clients is required. Clients should be provided with information on the therapeutic approach, its' effectiveness, and risks/limitations of the therapy. The client should be given the opportunity to ask questions, and to have those questions answered competently and without bias. In addition, whenever a new therapeutic intervention is introduced, social workers should provide clients with information on other therapy options that exist so that the client can make an informed decision on what is in their own best interest.

Scenario 2

Mary is a RSW in private practice. She has been providing face to face counselling to Jane for the past two months for social anxiety. Jane is moving to a community three hours away and can no longer attend face to face sessions with Mary. Jane expresses that she is distraught about having to end the therapeutic relationship and asks Mary about videoconferencing. Given that Mary uses videoconferencing with some of her other clients, she feels this would be a good option for Jane. Next steps for Mary to consider are:

- a) Discuss the risks/benefits of counselling delivered by video-conferencing.
- b) Provide Jane with information on what technology she will need to set up videoconferencing.
- c) Confirm whether Jane's insurance plan covers counselling delivered through videoconferencing.
- d) Schedule another appointment with Jane and document her request for videoconferencing.

In reflecting on this case scenario, standard three of the NLASW Standards for Technology Use in Social Work Practice (2012) is pertinent: As part of the informed consent process, social workers inform clients about technologies that are being used in the delivery of social work services, including the inherent risks and opportunities (p. 5).

Through exploration of the risks and benefits, Jane can make an informed decision about videoconferencing versus referral to another social worker. Potential benefits of videoconferencing include the ability for Jane to maintain her therapeutic relationship with Mary and the elimination of the travel barrier for counselling. Potential risks include technological failures, potential confidentiality concerns, and the impact of technology on the therapeutic relationship.

While Mary has successfully used this mode of technology with other clients, it may not be the best option for Jane. Several questions for consideration as it relates to informed consent include:

- 1) What stage are Mary and Jane at in the professional relationship? Was termination of the social worker-client relationship discussed and planned as part of the informed consent process? Should this be revisited?
- 2) Whose interests are being met in continuing the therapeutic relationship online?
- 3) Is Mary familiar with the counselling options that exist for Jane in the community where she is moving? Does Mary have a responsibility to seek out this information?

Mary should provide Jane with the opportunity to ask questions about counselling delivered through the use of technology, while also providing her with information on other counselling options that may exist in her community so that her client can make an informed decision. Mary also needs to provide

Jane with the rate for online counselling and how payments are made. If Jane and Mary decide to proceed, it is Mary's responsibility to let Jane know that she can withdraw from the counselling sessions at any time, how termination would be addressed, and how they would address technological failures in the delivery of services. Mary should note all of this in the client file.

Documentation

As outlined in the NLASW Standards for Social Work Recording (2014) "social workers document informed consent in the client record at the beginning of the social work relationship, and throughout the duration of the relationship as necessary" (p. 6). Documentation of client consent can be included in a written consent form, case note, or both. However, it is important to highlight that a standard administrative informed consent form, signed by a client, *may* not necessarily constitute informed consent. When engaging clients in informed consent, it is important that "it is viewed as dialogue between therapists and clients and as a decision-making process where clients get to make decisions based on discussion and information" (Zur, n.d. para. 3).

What about Involuntary Clients/Court Mandated Services?

Social workers often work with clients who are mandated to engage in programs and services as part of a court order or legislative requirement (i.e., child, youth and family services, youth corrections, adult protection, mental health care and treatment, etc.). While the client may not be able to refuse services, social workers can still operate within the principles of informed consent, providing clients with on-going information and encouraging as much self-determination as possible. This is reflected in the CASW (2005) Guidelines for Ethical Practice:

- In all cases where client's right to self-determination is limited by duty of care (e.g., client intent to self-harm), the law (e.g., child abuse) or court order, social workers assist clients to negotiate and attain as much self-determination as possible. In particular, involuntary clients are made aware of any limitations that apply to their right to refuse service and are advised how information will be shared with other parties (1.4.4).

Conclusion

Informed consent is integral to the social worker-client relationship. Ensuring that clients are able to give informed consent for services is a professional responsibility and is keeping with the ethical value of respect for the client's right to self-determination. Engaging clients in a thorough informed consent process may also help to avoid ethical dilemmas later on in the professional relationship that involve disclosure of client information, conflicts of interest, or boundary challenges.

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