SOCIAL WORK ETHICS
- Confidentiality

By Diana Castillo, BA PSYCH, MSSW, LCSW, Reiki Master

Presented by CEUSchool
Author Information

Diana Castillo, BA, MSSW, LCSW is an Independent Clinical Social Worker currently Licensed in Florida. She specialized in treating Incest and Child Sexual Abuse. This encompasses many other diagnoses, which she sub-specialized in. These include Depression, Eating disorders, Post Traumatic Stress Disorder, and others.

She has worked as a Psychotherapist in a Community Mental Health Clinic setting, Private Psychiatric Hospitals and Independent Clinical Practice for over 20 years. She is also a Holistic practitioner and has integrated the traditional and the holistic approaches to health and healing using Alternative modalities with Traditional modalities. She is also completing her dual Doctorate in Natural Healing and Nutrition from the Clayton School.
Course Summary

This course will provide the licensed social work professional with the knowledge and guidelines to perform the Social Work job functions with a greater knowledge of ethics. It will also provide possible direction when there are situations that are unclear ethically and when there is question as to what course of action to take to resolve an issue.

Given the broad spectrum of ethical issues addressed in the NASW Social Work Code of Ethics, for the purpose of this course, the specific focus will be on confidentiality in the practice of Social Work. It is the opinion of the author that the professional will benefit more by focusing on one area of ethical consideration at a time and ponder it or them more deeply to better incorporate it into their practice of social work.

Confidentiality has always been a controversial issue in the health profession. People value their privacy and often a malpractice suit involves a violation of this privacy. September 11, 2001 was pivotal in changing forever the rights of patients and citizens. Terrorist threats have birthed the Patriot Act in an attempt to allow the government to investigate suspicious behaviors and conversations, monitor financial activities of citizens, allow observation of activities and infinitely more issues in order to protect this country. In spite of all this, confidentiality remains a highly protected and valued human right with even more passion since September 11, 2001.
The information contained herein will be taken directly from the NASW Social Work Code of Ethics guidelines and codes often verbatim, as well as the Association of Social Work Boards Model Social Work Practice Act so that it can be used as a direct reference for the professional.

**Course Objectives**

After completing this course Social Workers will:

- Gain a better understanding of what the NASW Code of Ethics represents and how it plays a role in his/her career.
- Understand the relationship of privacy and confidentiality in the therapeutic relationship.
- Understand the importance of confidentially with colleagues.
- Understand the legal limitations of confidentiality.
The primary mission of a social worker is to “enhance human well-being and help meet human needs of all people with particular attention to the needs of and empowerment of people who are vulnerable, oppressed and living in poverty.” (NASW Code of Ethics, 1996)

This mission statement applies to different settings and across ethnic and cultural groups. It is promoted with clients, families, groups, organizations and communities. (NASW Code or Ethics, 1996.)

The social work ethics code assists the social worker in making decisions that involve ethical decisions. This is true for decisions about clients, colleagues, employers and other community officials.

Inherent in the social work values is the understanding that at times decisions are difficult and can involve confidentiality issues. An example is when a therapist’s records are subpoenaed and violate a client’s confidentiality. Therapists have served prison time for violating this subpoena by refusing to violate the client’s privacy. The Code of Ethics assists the social worker in providing a base for making these difficult decisions.

Another purpose of the Code of Ethics is to present guidelines for adjudication when a social worker has violated ethical principles or standards. There are formal steps taken for adjudication of ethical complaints filed against a social worker. This involves a peer review by a committee on “inquiry: which evaluates whether there has been a breach of ethics. This committee then reports the findings to the NASW.
Professional sanctions are enacted when there has been an ethical violation. These sanctions can involve retraining, counseling, public notification of the violation, probation and even expulsion from the NASW. The NASW Code of Ethics in summary is the guideline for purpose, values, ethical behavior and consequences for violation of ethical behavior. This Code of Ethics is designed to help the social worker conduct her or himself in a professional and responsible manner and to be accountable for his or her decisions. (NASW, 1966.) ASWB’s Model Social Work Practice Act further elaborates and enumerates the NASW Code of Ethics.

**Privacy and Confidentiality**

The section treating Privacy and Confidentiality from the NASW Social Work Code of Ethics and will be cited verbatim and then discussed.
1.07 Privacy and Confidentiality

(a) Social workers should respect clients' right to privacy. Social workers should not solicit private information from clients unless it is essential to providing services or conducting social work evaluation or research. Once private information is shared, standards of confidentiality apply.

(b) Social workers may disclose confidential information when appropriate with valid consent from a client or a person legally authorized to consent on behalf of a client.

(c) Social workers should protect the confidentiality of all information obtained in the course of professional service except for compelling professional reasons. 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 other identifiable person or when laws or regulations require disclosure without a client’s consent. (Tarasoff v. Regents of University of California 17 Cal. 3d425, 131 Cal. Rptr. 14,551 P. 2d 334, 1976.)

In all instances, social workers should disclose the least amount of confidential information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed. An interesting case in point involves a clinical social worker who was almost jailed for refusing to disclose records from his counseling of a couple in a custody battle that the therapist had not been told about. He was ordered to submit the records to the court. He was not prosecuted since he was able to reach a compromise with the couple. This is just an example of how sticky confidentiality can become when the social worker least expects it to. (Megan Malugani, Monster Contributing Writer, 2007,
Confidentiality in Social Work,

http://content.monster.com?articles/3490/18423/1home.aspx

(d) Social workers should inform clients about the disclosure of confidential information and the potential consequences, before the disclosure is made. This applies whether social workers disclose confidential information on the basis of a legal requirement or client consent.

(e) Social workers should discuss with clients and other interested parties the nature of confidentiality and limitations of client’s right to confidentiality. Social workers should review with clients circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the social worker-client relationship and as needed throughout the course of the relationship.

(f) When social workers provide counseling services to families, couples or groups, an individual’s right to confidentiality becomes more complicated. Social workers should inform participants in family, couples or group counseling that social workers cannot guarantee that all participants will honor such agreements. It is important that social workers seek agreement among the parties involved to maintain each others confidentiality.

(g) Social workers should inform clients involved in family, couples, marital or group counseling of the social worker's, employer's and agency's policy concerning the social worker's disclosure of confidential information among the parties involved.
in the counseling.

(h) Social workers should not disclose confidential information to third-party payers unless clients have authorized such disclosure.

(i) Social workers should not discuss confidential information in any setting unless privacy can be ensured. They should not discuss confidential information in public or semipublic areas such as hallways, waiting rooms, elevators and restaurants.

(j) Social workers should protect the confidentiality of clients during legal proceedings to the extent permitted by law. When a court of law or other legally authorized body orders social workers to disclose confidential or privileged information without a client's consent and such disclosure could cause harm to the client; social workers should request that the court withdraw the order or limit the order as narrowly as possible or maintain the records under seal unavailable for public inspection.

(k) Social workers should protect the confidentiality of clients when responding to requests from members of the media.

(l) Social workers should protect the confidentiality of client’s written and electronic records and other sensitive information. They should take reasonable steps to ensure that client’s records are stored in a secure location and that such records
are not available to those who are not authorized to have access.

(m) Social workers should take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones, answering machines and other electronic or computer technology. Disclosure of identifying information should be avoided whenever possible.

(n) Social workers should transfer or dispose of client’s records in a manner that protects client’s confidentiality and is consistent with state statutes governing records and social work licensure.

(o) Social workers should take reasonable precautions to protect client confidentiality in the event of the social worker's termination of practice, incapacitation or death.

(p) Social workers should not disclose identifying information when discussing clients for teaching or training purposes unless the client has consented to disclosure of confidential information.

(q) Social workers should not disclose identifying information when discussing clients with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure.
Social workers should protect the confidentiality of deceased clients consistent with the preceding standards.

2.02 Confidentiality with Colleagues

Social workers should respect confidential information shared by colleagues in the course of their professional relationships and transactions. Social workers should ensure that such colleagues understand social worker’s obligation to respect confidentiality and any exceptions related to it.

There are situations that necessitate difficult ethical decisions. Some occur when a court orders the social worker to divulge information about the client. The NASW has addressed that issue. Social Workers can document only information that he/she would want divulged if the file was court ordered. This may prevent a Social Worker from being arrested for contempt of court or from violating client privacy and confidentiality.

A situation that can compromise the client’s privacy and confidentiality is when a client informs us he or she intends to do harm to self or another person. Another situation is abuse of a disabled person or abuse of a minor. Social Workers are obligated to file reports with the appropriate agencies regardless of confidentiality.

In summary, the social work ethical codes on privacy and confidentiality are very clear. We as social workers are responsible for reading the Code of Ethics. As Social Worker’s
move from student to a working professional, we realize the importance of these ethics. As a professional we may forget or lose track of what the exact ethics are so it is important to review them from time to time. In all situations, this guide should be kept handy and be consulted anytime there is a doubt or question about the proper and ethical thing to do.

Many situations can present ambiguity or confusion. There may be circumstances that are not clear and cause us to violate the privacy and confidentiality of a client. Innocently we can divulge or share information that seems harmless but can be a violation. For example, an innocent call and message left on a cell phone voice mail or on an answering machine can be a violation of privacy and confidentiality. Sharing client information with a colleague who is not directly involved in the treatment of a client can be a violation of privacy and confidentiality. Providing any personal information to another person can divulge enough to allow that person to figure out who the client is. There are many situations that can cause this violation of privacy and confidentiality so we must be cautious. There have been situations that have caused danger to clients because a perpetrator was able to get enough information to find the client and cause harm. These are just some things that can happen inadvertently due to carelessness or ignorance of the Code of Ethics. When in doubt a supervisor should be consulted.

Ethics by their nature are based on personal values. These are collective values but each person must decide what his or her own personal values are and make ethical decisions
based on those values. However, in the professional world there are standard values that
guide our ethical decisions. The NASW Code of Ethics are meant to be this guide for
social workers. They are based on widely accepted values. Our own personal ethical
decisions are not always the most widely accepted decisions which is why the NASW
Code of Ethics is meant to guide our professional decisions. The guidelines to deal with
violations of these professional ethics have been decided on by groups of professionals
and scholars that are well versed and have a wealth of experience. Can one ever be sure
their decision is truly the correct one? Social Workers do not have to bear that burden
alone since we have preset guidelines we can follow.