

LET'S START WITH THE GOOD NEWS: Relatively few social workers are named as defendants in lawsuits or respondents in licensing board complaints. The vast majority of social workers practice ethically and competently, adhering to widely embraced standards of ethics and social work practice designed to protect clients.

And then there's the bad news: Some social workers—a distinct minority, to be sure—practice social work outside established standards, thus posing significant risk to clients and to their own careers. These social workers are much more likely to have lawsuits and licensing board complaints filed against them. And even the most conscientious, principled, earnest, and ethical social workers run the risk, however small, that disgruntled clients will file complaints against them, even when no evidence of wrongdoing exists.

That there is a need for this book is unfortunate. After all, what social worker wants to spend time reading and thinking about being sued or being named in a licensing board complaint? Sadly such formal complaints are a fact of modern life, and the costs are significant. I am not referring only to the financial cost, mind you. I am also referring to the emotional cost. Even when a social worker has done nothing wrong, being named in a lawsuit or licensing board complaint is psychologically taxing. Moreover the social worker will need to consult (and pay) a lawyer, answer interrogatories, produce documents, attend depositions and hearings, and repair or preserve her reputation. Under the best of circumstances this arduous process is a miserable experience. Under the worst of circumstances it can be devastating.

Unfortunately social workers get little training to help them avoid malpractice claims and licensing board complaints. Professional education typically includes little on the subject of what has come to be known in the trade as “risk management.” Although more and more social workers are learning about professional ethics, professional and continuing education rarely includes a systematic introduction to risk management and ways to prevent formal complaints. My hope is that this book will help remedy the situation.

Since the early 1980s I have had the privilege of speaking to thousands of social workers throughout the United States, Canada, Europe, and Asia about professional ethics. When I started to receive invitations to deliver lectures and workshops on the topic, my focus was primarily on ethical issues in social work and the nature of ethical decision making when confronted with difficult dilemmas.

Over time, however, I noticed a distinct trend. During conference breaks and after my presentations I began to get more and more questions that started along the lines of “I was wondering if I can get sued for _____?” or “Can I get in trouble with my licensing board if I _____?” (Fill in the blanks.) It did not take me long to figure out that while I was preoccupied with perplexing and conceptually complex philosophical issues related to social work ethics, many in my audiences were understandably consumed with more pragmatic concerns about potential lawsuits and other complaints. This should not have been much of a surprise because many ethical issues that I was presenting broached complicated legal questions as well.

What this meant, of course, was that I found myself learning more and more about the malpractice and licensing board risks associated with social work practice. Over the years I have collected scores of case examples from conference participants, colleagues, and more than one hundred court and licensing board cases in which I have served as an expert witness and consultant.

It is sad, in a way, that the profession has generated so much concern about risk management. It distracts from the principal mission of social work, and the concern often is out of proportion to the statistical risk of being named in a lawsuit or licensing board complaint. From my point of view, however, this also represents an important opportunity to educate social workers about good practice and good ethics, which ultimately prevent lawsuits and licensing board complaints. My hope is

that this book will provide social workers with an in-depth and practical guide to help them recognize, prevent, and cope with risks they encounter in their work.

The book is designed to assist social workers involved in direct practice (especially clinical work with individuals, couples, families, and small groups) and in social work supervision, management, and administration. After I introduce the concepts of negligence, malpractice, liability, and risk management (chapter 1), I turn to a series of discrete topics. These include problems related to privacy and confidentiality (chapter 2), improper treatment and delivery of services (chapter 3), impaired practitioners (chapter 4), supervision (chapter 5), consultation and referral (chapter 6), fraud and deception (chapter 7), and termination of service (chapter 8). I conclude the book with a series of practical suggestions for social workers who are named as defendants in lawsuits and licensing board complaints, and some observations about the role of good practice and good ethics in managing and reducing risk (chapter 9).

This book contains considerable case material. I drew the cases from several sources, including legal texts, law reporters (published summaries of legal cases), court documents, newspaper accounts, and my own involvement in a wide variety of court and licensing board cases. Some case illustrations come from publications that provide periodic updates of litigated cases. I found other case examples in textbooks and original court opinions published in various state, federal, and regional reporters. Most cases that I cite are a matter of public record; in some instances I could not provide dates for the decisions because I found descriptions of these cases only in secondary sources and the cases themselves were not published. In several instances I report case-related details in disguised form to protect the privacy of the parties involved.

It is important to note that I am not an attorney, and I am not offering legal advice in this book. Although this book includes information and commentary about legal concepts and cases, readers who believe they need or want legal advice should consult an attorney with expertise in professional malpractice and risk management.

I have noticed that when I speak to social workers about this subject, their anxiety tends to increase. Contemplating being named in a lawsuit or licensing board complaint is not exactly fun. What I have found, however, is that whatever anxiety this topic produces can stimulate determined

efforts to enhance the quality of social work practice. Perhaps the most effective way for social workers to protect themselves from formal complaints is to offer competent and ethical service to clients. Sometimes anxiety can serve a useful purpose by inspiring constructive action. As the nineteenth-century Scottish writer Thomas Carlyle said, "Talk that does not end in any kind of action is better suppressed altogether."

RISK MANAGEMENT IN SOCIAL WORK

