



**THE NEW BRUNSWICK  
ASSOCIATION OF SOCIAL WORKERS**

**GUIDELINES ON DISCLOSURE  
OF CONFIDENTIAL  
INFORMATION IN SITUATIONS  
OF POTENTIAL HARM**

Adopted by the  
NBASW Board of  
Directors  
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## **Preface**

The New Brunswick Association of Social Workers (NBASW) in partnership with the Ethics, Practice Issues, Ethics and Professional Standards Committee, has developed these guidelines for social workers in New Brunswick who may be dealing with matters involving confidentiality and the disclosure of information without a client`s consent in situations of potential harm.

This document highlights best practices and the NBASW Code of Ethics (2007), CASW Code of Ethics (2005) and Guidelines for Ethical Practice (2005) served as foundational documents in developing these guidelines.

## **Introduction**

Confidentiality is a crucial element of client-social worker professional relationships. Clients are more likely to be open to sharing the difficult experiences they have encountered knowing that the information they disclose is treated in confidence. Although confidentiality must be held to the highest standard of the profession, social workers must understand that in specific circumstances, disclosure of certain client information without consent is required and justified in order to take reasonable steps to assist in the protection of those who may be at risk. A social worker who chooses absolute confidentiality may be held accountable if harm is done. In addition violations of the Code of Ethics may form the basis of a complaint, and may result in disciplinary action.

Social workers may struggle with identifying situations involving permissible disclosure of client information without consent, the acceptable amount of information to be disclosed, and the persons to whom the information should be disclosed to. Such challenging situations may be stressful for new and experienced social workers. The intention of this document is to enhance professional clarity and assist social workers in ethical practice, and is not intended to be legal advice. Social workers are strongly encouraged to consult with the NBASW or to seek legal advice to help them with the legalities related to ethical dilemmas and complex cases they encounter.



## **Confidentiality and disclosure of client information without consent in situations of potential harm**

The CASW Code of Ethics (2005), *Value 5: Confidentiality in Professional Practice* states:

*A cornerstone of professional social work relationships is confidentiality with respect to all matters associated with professional services to clients...Social workers only disclose confidential information to other parties with the informed consent of clients, 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 a disclosure is necessary to prevent serious, foreseeable and imminent harm to a client or others.*

The NBASW Code of Ethics (2007) also speaks to this obligation in section 1.5.1:

*1.5.1 Social workers shall protect the confidentiality of all information acquired from the client or others regarding the client and the client's family during the professional relationship unless the client authorizes in writing the release of specified information, the information is released under authority of a statute, order of a court of relevant jurisdiction, or by the Code and Standards of Practice.*

In section 1.5.2 of the NBASW Code of Ethics (2007), social workers are expected to explain these responsibilities to clients:

*1.5.2 Social workers shall discuss with clients the nature of confidentiality and limitations of the clients' right to confidentiality at the earliest opportunity and throughout the relationship as required, and shall review with clients when disclosure of confidential information may be legally or ethically required.*

The NBASW Code of Ethics (2007) indicates that one of the primary professional obligations of social workers is to maintain the best interest of the client. However, there may be some exceptions in which the priority of the client may be outweighed by legal requirements. Social workers should review with clients situations where confidential information may be requested, and where disclosure of confidential information may be

legally required. Social workers must be honest and accurate with their clients regarding their obligations to disclose certain information without consent for the prevention of serious threat to others or the client themselves.

Clients must clearly be made aware in the professional relationship that confidentiality has limitations. The earliest opportunity to inform clients of their right to confidentiality typically would be at a first contact unless other interventions take precedence in a state of crisis or urgency. A best practice is to provide details of confidentiality both verbally and in writing (Reamer p. 64).

Clients may be overwhelmed by their situation and all the information presented by the social worker at the beginning of a client-social worker relationship. Preparing a written document outlining the limitations of confidentiality can be a useful tool and can help with the retention of information (Reamer, p.64). Social workers can ask clients to sign a copy of the document explaining confidentiality and the limitations of the clients' right to confidentiality as a means of confirming that the information was conveyed to clients, that it was understood, that opportunity to ask questions was given, and answers were provided. The signed document should be inserted in the clients' files, and a copy of it can be provided to a client for future reference (Reamer, p.64). It is also important for social workers to revisit discussions on the limitations of clients' right to confidentiality with the client throughout the course of the professional services.

In the event that a social worker learns through a client or other means that any person's actions or potential actions pose a serious, foreseeable and imminent risk to others or the client themselves, she/he has a duty to act in a manner that respects the greater good of the situation. At times this may mean going against the wishes of the client. In such situations, it is important to notify the appropriate authorities and warn any potential people at risk. This, in fact, means that confidentiality is compromised but such breaches are seen as appropriate because protection from harm takes precedence over a client's right to confidentiality. This is supported by the following sections of the NBASW Code of Ethics (2007):

*1.5.14 Social workers who have reason to believe that a client intends to harm another person shall inform both the person who may be at risk (if possible) and the police.*

*1.5.15 Social workers who have reason to believe that a client intends self-inflicted harm shall take appropriate action consistent with law, standards of practice and work place policies.*

Social workers also have a professional obligation to immediately report to the Department of Social Development of their concerns when they have reasons to believe that a child is being harmed and needs protection. Section 30 (3) of the *Family Services Act*, indicates that a professional who does not inform the Minister of the situation without delay commits an offence. Furthermore, when social workers have reasons to believe that an adult client is a victim of physical abuse, sexual abuse, mental cruelty, shall take appropriate action as required by law. Section 35.1(1) of the *Family Services Act*, mentions that a professional who has reason to believe that an adult is being neglected or abused, may disclose information to the Minister. These obligations are highlighted in sections 1.5.13 and 1.5.16 of the NBASW Code of Ethics (2007):

*1.5.13. Social workers who have reason to believe a child is being harmed and is in need of protection shall report their concerns to the proper authorities as required by law.*

*1.5.16. Social workers who have reason to believe that an adult client is being abused shall take action as required by law.*

When social workers are required to disclose confidential information, they should “disclose the least amount of confidential information necessary to achieve the desired purpose” (CASW Code of Ethics 2005, p.11). In light of this statement, social workers limit their disclosures to information that pertains to the threat of harm in order to prevent.

The question of whether a social worker should inform a client of actions to disclose information is a key consideration. It is important to respect a client’s rights as much as possible but in each situation the social worker must consider the implications and feasibility of advising the client of the decision to act or involving her/him in the process (Reamer, p.63):

*1.5.7 Social workers shall inform clients, to the extent possible, about the disclosure of confidential information and its potential consequences before the disclosure is made. This applies in all circumstances of disclosure, except when, in the professional judgment of the social worker, sharing this information with the client may bring about, or exacerbate, serious harm to individuals or the public. (NBASW Code of Ethics 2007)*

If a social worker is unsure whether there is an obligation to disclose information without obtaining consent from the client, or is unsure of whether to inform a client of actions to

disclose confidential information, they should seek legal advice and consultation with a supervisor and/or peer consultation to assist in understanding their professional obligations, organizational policies. A social worker shall maintain proper and thorough documentation (consultations, decisions, rationale for these decisions, and actions taken) in order to protect all parties.

**The following examples are offered to demonstrate some practical applications of these guidelines:**

**Example A:** *A client, while discussing the end of his marital relationship, tells a social worker, who works in a community mental health treatment center “I’m going to buy a gun and solve my problems”.*

- Based on the dialogue between the two, does he mean he will hurt himself or his ex-wife? In either case there is a duty to report. If the issue is a risk of suicide the social worker should take appropriate steps to ensure client’s safety. If the concern is that he is going to hurt his ex-wife, the social worker should notify law enforcement and the ex-wife (unless the worker cannot ascertain her identity/contact information despite reasonable effort to do so).

**Example B:** *A client informs a social worker that her brother was just fired from his job and is threatening to do harm to his former employer. The client does not want the social worker to act on the information.*

- The social worker’s professional responsibility to report to the appropriate authorities take precedence over the client’s request. The social worker should contact law enforcement. Based on professional judgment, the social worker may either inform and/or invite the client to participate in notifying law enforcement, or not involve the client in the process.

**Example C:** *A youth residing in a group home has been returned after having run away from the residence. The youth is now meeting with a social worker. Furious at being returned and having lost all privileges as a consequence of running away, the youth expresses that there is nothing left to lose and threatens to light the residence on fire.*

- Based on this conversation, the social worker must immediately inform the group home staff. Based on the specific circumstances and appropriate consultations, a decision would be made regarding whether to inform the police.

**Example D:** *A school social worker was told by a 7 year old boy that his parents work evening and that he is often left alone without supervision. The young boy also expressed that he does not mind since he can play video games for a long period of time. The young boy pleaded with the social worker to keep this information secret.*

- The social worker who has reasonable grounds to believe that a child is being neglected or abused must inform the appropriate authorities immediately. If a social worker decides not to comply with the mandatory reporting, as defined in law, commits an offence and assume the risk of a potential complaint.

**Example E:** *A women residing in a nursing home confided in her social worker that her previous social worker touched her inappropriately. The women informed the social worker that the previous social worker is no longer working in the residence.*

- In this example, the social worker may support and discuss benefits of reporting with the individual. The social worker may also choose to report the abuse to the appropriate authority. If a social worker is aware that another social worker has sexually abused a client, he/she must report to the appropriate regulatory body. If a social worker fails to report the suspected abuse or neglect, he/she commits an act of professional misconduct.

## **Conclusion**

The intent of this document is to provide professional clarity and assistance to social workers engaging in complex practice situations that may involve disclosure of client information without consent in order to take reasonable steps to prevent harm. This document highlights best practices and is offered as a tool to be used in consultation and collaboration with peers and supervisors, recognizing that each situation is unique and requires use of professional judgment.

It is also an ethical and professional responsibility of social workers to know the limitations of confidentiality identified in the code, the law, and work place policies and standards. In determining when to disclose confidential information without a client's consent, social workers are also encouraged to familiarize themselves with the Ethical Decision Making tool. This tool helps to improve the ability of social workers to reason more effectively about ethical issues and improve the quality of ethical decision making. This tool can be found in Appendix A of this document.

If necessary, please seek further clarification from the New Brunswick Association of Social Workers by email at [nbasw@nbasw-atsnb.ca](mailto:nbasw@nbasw-atsnb.ca) or by phone at 1-877-495-5595 (within New Brunswick) or (506) 459-5595 (outside New Brunswick).



## References

Canadian Association of Social Workers. (2005). *Code of Ethics*, Ottawa, ON: Author.

*Family Services Act*, Chap. F-22. Section. 30(01), 30(3). (1980).

<http://laws.gnb.ca/en/showpdf/cs/F-2.2.pdf>

New Brunswick Association of Social Workers. (2007). *Code of Ethics*. Fredericton, NB: Author.

Reamer, F. G. (1998). *Ethical Standards in Social Work-A Critical Review of the NASW Code of Ethics*, Washington, DC

# **Appendix A**

## ETHICAL DECISION MAKING

1. Identify the ethical issues, including the social work values and duties that conflict.
  2. Identify the individuals, groups or organizations that are likely to be affected by the ethical decisions.
  3. Tentatively identify all possible courses of action and the participants involved in each along with possible benefits and risks for each.
  4. Thoroughly examine the reasons in favor of and opposed to each possible course of action, considering relevant:
    - (a) ethical theories, principles, and guidelines;
    - (b) codes of ethics and legal principles;
    - (c) social work practice theory and principles;
    - (d) personal values (including religious, cultural and ethnic values and political ideology)
  5. Consult with colleagues and appropriate experts (such as agency staff, supervisors, agency administrators, attorneys, ethics scholars, and ethics committees).
  6. Make the decision and DOCUMENT it and the decision-making process.
  7. Evaluate and Monitor – and Document.
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(Reamer, F.G., (1991), *Social work values and ethics* (2<sup>nd</sup> edition). New York: Columbia University)

Congress, E.P. (1998). *Social Work Values and Ethics*. Chicago: Nelson-Hall Joseph, M.V. (1985), A model for ethical decision making in clinical practice. In C.B. Germain (Ed.), *Advances in clinical practice* (pp. 207-217), Silver Spring, MD: National Association of Social Workers.

Loewenberg, F & Dolgoff, R. (1996). *Ethical decision for social worker practice* (5<sup>th</sup> ed.) Itasca, IL: F.E. Peacock