



ETHICAL SCENARIOS WORKSHEET (OPTIONAL) CAPACITY OF MINORS TO CONSENT TO SOCIAL WORK SERVICES

Introduction

Every day in professional practice, social workers are faced with a variety of ethical dilemmas that they must navigate. Using the NBASW [Code of Ethics](#) (2007), the [Standards Regarding the Capacity of Minors to Consent to Social Work Services](#) (2021), the [Guideline on Assessing the Capacity of Minors](#) (2022) and any other related practice standards, guidelines, or legislation, take the time to respond to these ethical scenarios. A complete list of NBASW documents can be found on the [NBASW website](#).

In each scenario, take the time to engage in [Ethical Decision Making](#) as you work through the situation, reflecting on what the social worker should do in each case. Once you have completed each scenario, read through the NBASW's recommendations on the situation (pg. 6). Take this time to reflect how they are similar or different from the responses you came up with.

This worksheet is an optional exercise that coincides with the mandatory NBASW Ethics, Standards and Guidelines Training pertaining to the *Standards Regarding the Capacity of Minors to Consent to Social Work Services*. Please note the time that it takes you to complete this worksheet, as this time can be applied toward your CPE hours for the current registration year.

Apply Ethical Decision Making

Apply the principles of Ethical Decision Making to each scenario, as you work through them:

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; and
 - d. personal values (including religious, cultural and ethnic values and political ideology).
5. Reflect on who you would consult in this situation, which may include colleagues and appropriate experts (such as agency staff, supervisors, agency administrators, attorneys, ethics scholars, and ethics committees).
6. Make the decision and document your decision and the decision-making process.
7. Consider how to evaluate, monitor, and document the scenario going forward.

8. **A social worker has a youth who is 12 years old approach them, looking for counselling. The social worker meets with the youth and discusses their situation, to gain a sense of why they're seeking counselling. In the discussion, the social worker learns that the youth has lived with their grandparents, who are not their legal guardians, since they were young. The youth speaks fondly of their grandparents and says they are in support of the youth seeking counselling. The youth hasn't spoken with their biological parents, who are the youth's legal guardians, in over a year. The social worker provides the youth with information on the counselling services they provide, including the potential benefits and risks associated with the service, the nature and limitations of confidentiality, how information is stored and recorded, and provides the youth with information on other options and community resources that exist. The social worker then assesses whether the youth understands the information they have discussed, whether the youth is capable of connecting this information with their situation, and whether the youth is able to reason and communicate a choice. Due to the youth being somewhat younger, the social worker takes the time to ask more questions than they otherwise would when working with an older individual and asks the youth to rephrase things at times, to fully ensure the youth has the decision-making capacity required to provide informed consent. The social worker assesses the youth as having the capacity to be considered a mature minor and the youth provides consent to receive social work services. The social worker documents the capacity determination and the reasons the youth met the mature minor threshold in the client's file. After working with the youth for several months, the social worker is contacted by the youth's biological parents out of the blue. Their parents ask for information on the youth and ask to be sent the youth's file, emphasizing that they are the parents and that they have a right to know information about their child. What are the appropriate next steps for the social worker to take?**

Ethical Scenarios – Discussion and Recommendations from NBASW

1. A social worker is working with a youth, 16 years of age, who is a mature minor and provided consent to receiving social work services. During a session, the youth informed the social worker that they were experimenting with recreational drugs. There are no indications that the youth intends to harm themselves through the use of the drugs, they are simply experimenting. However, the social worker feels the parents should know due to the potential risks associated with recreational drug use, as they themselves would want to know if their child was using drugs. What should the social worker do in this instance?

While there are potential risks associated with recreational drug use, the social workers assessment indicated that the youth is not experimenting with drugs with the intention of harming themselves. All clients have a right to confidentiality, as indicated in section 1.5 of Code of Ethics (NBASW, 2007). Specifically, the Code states:

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.

1.5.2. Social workers shall discuss with clients the nature of confidentiality and limitations of 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.

Since the social worker has assessed that the client does not intend to harm themselves through use of recreational drugs, the social worker must uphold client's right to confidentiality. While it is normal for parents to have a desire to know the details of the child's life, a social worker's personal biases should not cloud their professional judgement or their ethical obligation to uphold client confidentiality.

In this case, the social worker should work with the client to explore why they are experimenting with recreational drugs, discussing the potential risks associated with drug use and exploring harm reduction techniques that may be taken to ensure they are taking precautions to ensure their safety.

The social worker may work with the client to explore the idea of informing their parents, as well as exploring reasons behind the clients' hesitancy to do so. However, without the clients' consent to release this information and without the concern that the client is immediately at risk and intends to harm themselves, there isn't sufficient cause to breach client confidentiality in this case.

If the social worker were to go ahead and breach client confidentiality, by sharing this information with the parents without the client's consent, it is likely that this breach would harm the client-

social worker relationship and that the client would no longer feel comfortable sharing information such as this with the social worker going forward. Maintaining client trust and fostering an open relationship where the client is willing and able to share personal information is key in being able to continue to adequately assess the situation and the potential risks.

Social workers must be sure to thoroughly document all assessments and decisions that are made pertaining to disclosure or non-disclosure in the client's file. For additional information on disclosure, please refer to the NBASW's [Guidelines on Disclosure of Confidential Information in Situations of Potential Harm](#) (2017).

2. A mom brings her child to a social worker seeking services for her child who is four years old. Upon the initial meeting with the mother and child the social worker confirms that the child is not a mature minor, something that was likely, based on the child's young age. During this initial discussion the social worker learns that, although the parents are together, the father is not in agreement with the mother seeking social work services for the child. The social worker is unclear whether she can provide services to the child without the mother and father being in agreement and both providing consent to services. How should the social worker proceed?

While it is always a best-case scenario when both parents are on the same page with regards to their child receiving social work services, it is not necessary to require more than one parent/legal guardian's consent in order to provide services to a child who is not a mature minor.

Unless otherwise noted in a court decision, both parents have right to consent to their child receiving services. This means that either parent can provide consent and the consent of only one parent is all that is needed to proceed with the provision of social work services. This is also true for cases of joint decision-making responsibility or in cases where the parents are separated but there are no legal documents in place.

The idea that two parents must provide consent for a child to receive services is problematic, as there are many children who grow up with only one parent or who may not have a close relationship with one of their parents. It is important that social workers adopt practices that are in the best interest of clients (and in this case, children) and work to expand, rather than restrict, access to services.

In this scenario, the consent of the mother is all that is required to proceed with social work services for the child. If the social worker deems it appropriate and in the best interest of the child to engage the father in services, they may attempt to find an agreement among both parents regarding services provision. Before engaging the father in this process, the social worker should have discussions with the mother and child as appropriate, to gain a better understanding of why the father is not in agreement with the child receiving services.

3. A 13-year-old contacts a social worker, seeking social work services. During the initial phone call, the social worker learns that the youth lives with their grandparents, who are not their legal guardians but who are supportive of the youth accessing social work services. The social worker further learns that the youth does not have any contact with their biological parents, who are also their legal guardians. How should the social worker proceed in this situation and what are the possible outcomes?

Social workers should always arrange an initial meeting with a person who is seeking services, to gain a fulsome understanding of the situation and what the appropriate next steps should be. In this situation, the social worker should arrange an initial meeting with the youth to assess whether the youth is considered a mature minor and thus whether they have the capacity to provide consent to receive services. The four decision-making abilities the youth must possess to demonstrate capacity are the ability to understand relevant information, appreciate the situation and its consequences, reason, and communicate and express a choice.

If the youth demonstrates that they possess the four capacity indicators and that they fully understand the nature and potential consequences of receiving services, their consent is the only consent needed for the social worker to take them on as a client and proceed with social work service provision.

However, if during the capacity assessment the social worker determines that the youth can not be considered a mature minor at this time, consent from the youth's legal guardian(s) is required to proceed with services. In this case, the social worker may encourage the youth and their grandparents to attempt to connect with the parents so they can provide the required consent for the youth to obtain services.

If neither of the parents can be reached or are willing to provide consent for services, the social worker may inform the grandparents that they may apply request the Court of King's Bench appoint them as the minor's legal guardian. They may also request that the Court provide consent for the minor to receive services under the *parens patriae* doctrine, which allows the court to act in the stead of a parent for the protection of a child.

While age is not necessarily an indicator of capacity, capacity does increase with age, with youth being able to make more independent decisions and better express what is in their best interest. The social worker may discuss with the youth and their grandparents the possibility of re-assessing capacity and the possibility of them being able to provide their own informed consent at a later date, before they reach the age of majority.

4. A social worker was providing social work services to a youth of 15 years of age who was considered a mature minor at the onset of services. Since the youth was a mature minor, they provided consent to receiving social work services. While having this youth as a client, the youth was tragically involved in a serious car accident that impacted their cognitive abilities. How should the social worker proceed?

Social workers have the responsibility to assess capacity at the onset of services and throughout the professional relationship, as required. It is recognized that capacity assessments often occur informally throughout the course of services, through discussions with clients. However, there are instances when more formal capacity assessment is required, such as at the onset of services and following a traumatic event or accident.

In this case, the social worker should meet with the client and use their professional judgement to determine whether the client still has the capacity to clearly understand of the nature and consequences of receiving services, including purpose of the services, limitations of confidentiality, and so on. The social worker should review these items carefully with the client, ensuring that they still have the capacity required to provide informed consent (are considered a mature minor) and that the consent previously received is still valid. Specifically, the Code of Ethics (2007) states:

1.4.5. Where clients have limited capacity to comprehend or grant informed consent, social workers shall provide information in accordance with the clients' level of understanding, restricting their freedom of decision and action as little as possible.

1.4.7. Social workers, wherever possible, shall notify clients regarding decision made about them, except where there is evidence that this may bring about, or exacerbate, serious harm to individuals or the public.

If, in these discussions, the social worker determines that the client's capacity has regressed as a result of the trauma they experienced and that the client's initial consent is no longer valid, the social worker must obtain informed consent from the client's parent or legal guardian to proceed with services.

In either instance, a best practice would be for the social worker to obtain an updated consent form signed by the appropriate party (i.e., by the client if they're a mature minor and by the client's parent or legal guardian if they do not meet the threshold to be considered a mature minor). As always, the social worker should document all assessments and decisions that are made, as well as the rationale behind those decisions, in the clients' file.

5. A social worker is contacted by a youth of 10 years old who is seeking social work services. Based on their age alone, the social worker assumes that the youth is not a mature minor. Is this assumption correct? What are the next steps the social worker should take?

The assumption made in this case is incorrect. There is no minimum age with regard to capacity; every individual and situation is different. The social worker must first meet with the youth and assess whether the youth possesses the capacity to be considered a mature minor and provide consent for services. It is important that this first meeting always takes place, so social workers can provide the proper intervention in cases where the youth is potentially at risk.

During the initial capacity assessment, the social worker may choose to conduct a more in-depth assessment of the youth, to fully evaluate their capacity. This may involve asking more open-ended questions to the youth or asking the same question worded various ways, to ensure the youth has a complete understanding and is able to provide fully informed consent.

If the youth is deemed to be a mature minor, their consent is all that is required to proceed with services and if the youth is no deemed a mature minor, the social worker will require consent from a parent or legal guardian to proceed with services.

6. A youth that is a mature minor has been receiving non-mandated social work services. During a session, the youth informs the social worker that they are no longer interested in continuing with services. The social worker knows that the youths' parents really want them to continue accessing services. What should the social worker do?

With capacity being defined as the ability to both understand information relevant to a decision and to appreciate the consequences of a situation. With this, the youth is aware of the potential risk posed in discontinuing services, as they have the ability to understand potential outcomes and justify choices. Youth that have the capacity to consent to services also have the capacity to withdrawal their consent, or to refuse services. Social workers should remain cognisant that individuals who do not have the desire to participate in a service will not receive the therapeutic benefits they otherwise would.

In this case, the social worker may have a discussion with the youth as to why they are choosing to discontinue services at this time and may work to resolve any elements of the service that may be factoring into the youth's decision, should that be the case. Ultimately, the social worker needs to respect the decision the youth made to discontinue services, as they have the capacity needed to do so. The social worker may also provide contact information in case the youth wishes to reconvene services in the future and may provide the youth with a list of other community services that are available to them, as a best practice.

7. A social worker who is working on a multi-disciplinary team has a youth who is 13 years old referred to them by another team member, who is a Registered Nurse. This team member previously provided a medical treatment to the youth based on their consent for the treatment, after having assessed the youth as a mature minor under the *Medical Consent of Minors Act*. The nurse has connected the youth with the social worker, as the nurse believes the youth would benefit from receiving additional counselling. The social worker meets with the youth and proceeds to assess the youth's capacity to provide informed consent for social work services. During the assessment, it is made clear that the youth is unable to understand the concept of confidentiality and the limitations of confidentiality. What is important to consider and what are the appropriate next steps for the social worker to take?

Social workers must be the professionals assessing whether individuals have the capacity to provide informed consent to receive social work services. Decision-making capacity is fluid, it can increase or decrease overtime. Capacity is also decision-specific, with an assessment of a person's capacity being based on their ability to make a specific decision at the time it needs to be made and not their ability to make decisions in general. Although the individual had been assessed by the nurse as having the capacity required to provide consent for the previously received medical treatment, the social worker has determined that, at this time, the youth is not able to fully understand the information relevant to a decision; one of the four decision-making abilities that are required to be considered a mature minor. Based on this assessment, the social worker is not able to proceed with service provision. The social worker must receive consent from an appropriate substitute decision-maker before providing the youth with services. When working with minors, parents or legal guardians are the appropriate substitute decision-makers and the consent of one parent or legal guardian must be received to proceed with services.

8. A social worker has a youth who is 12 years old approach them, looking for counselling. The social worker meets with the youth and discusses their situation, to gain a sense of why they're seeking counselling. In the discussion, the social worker learns that the youth has lived with their grandparents, who are not their legal guardians, since they were young. The youth speaks fondly of their grandparents and says they are in support of the youth seeking counselling. The youth hasn't spoken with their biological parents, who are the youth's legal guardians, in over a year. The social worker provides the youth with information on the counselling services they provide, including the potential benefits and risks associated with the service, the nature and limitations of confidentiality, how information is stored and recorded, and provides the youth with information on other options and community resources that exist. The social worker then assesses whether the youth understands the information they have discussed, whether the youth is capable of connecting this information with their situation, and whether the youth is able to reason and communicate a choice. Due to the youth being somewhat younger, the social worker

takes the time to ask more questions than they otherwise would when working with an older individual and asks the youth to rephrase things at times, to fully ensure the youth has the decision-making capacity required to provide informed consent. The social worker assesses the youth as having the capacity to be considered a mature minor and the youth provides consent to receive social work services. The social worker documents the capacity determination and the reasons the youth met the mature minor threshold in the client's file. After working with the youth for several months, the social worker is contacted by the youth's biological parents out of the blue. Their parents ask for information on the youth and ask to be sent the youth's file, emphasizing that they are the parents and that they have a right to know information about their child. What are the appropriate next steps for the social worker to take?

Although the youths' parents have parental rights, the youth was assessed as having the decision-making capacity required to be a mature minor and provided their own consent to receive counselling through the social worker. In doing so, the youth is the client; they have the right to confidentiality and have ownership of their file. The social worker is not able to share the information contained within the youth's file without the youth's consent to release the information or unless otherwise legally required to.

In this case, the social worker should meet with the youth to discuss the parents request to access the file. This discussion must include all factors, including potential risks and benefits of sharing any/all of the information. The social worker and youth may also explore other potential options, such as engaging parents and grandparents in the counselling sessions, being sure to fully discuss the potential risks and benefits associated with these options.

If the youth agrees with the social worker sharing the file and/or information (in part or in full) and signs a consent form for the social worker to release information to the parents, the social worker must still use professional judgment and factor in ongoing capacity determinations and what is in the best interest of the client when determining what information should be masked (i.e., third party information) or withheld (for a just and reasonable cause). All discussions, decision-making processes, and decisions must be documented in the client's file.