

PRACTICE NOTES



➤ WHY YOU NEED
TO PUT IN THE
TIME BEFORE
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➤ *Practice Notes is an educational tool designed to help Ontario social workers, social service workers, employers and members of the public gain a better understanding of recurring issues dealt with by the College's Professional Practice Department and Complaints Committee that may affect everyday practice. The notes offer general guidance only and College registrants¹ with specific practice inquiries should consult the College, since the relevant standards and appropriate course of action will vary depending on the situation.*

Since the pandemic, the College has heard from an increasing number of registrants who are entering private practice on either a full- or part-time basis. The College has always maintained that private practice is not an entry-to-practice competence. Rather, the skills, knowledge and judgment required for private practice

develop with time and experience and are not acquired from academic training alone, even if that training includes practicum requirements. Registrants will face challenging and unexpected scenarios that must be skillfully navigated to support clients without causing harm. Registrants who are not adequately prepared for the many challenges of private practice can put the public at risk.

College registrants must ensure they have the requisite competence to provide safe and quality client services. The Code of Ethics states that "[a] College registrant maintains the best interest of the client as the primary professional obligation"² and that "College registrants shall be responsible for being aware of the extent and parameters of their competence and their professional scope of practice and limit their practice accordingly."³

¹ Disclaimer: the term "member" and "registrant" are used interchangeably and synonymously as equivalent to the term "member" as used in the Social Work and Social Service Work Act, 1998, and the Regulations.

² Ontario College of Social Workers and Social Service Workers (OCSWSSW), The Code of Ethics and Standards of Practice, Third Edition, 2023, Code of Ethics, interpretation 1.

³ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle II: Competence and Integrity, interpretation 2.1.1.

Registrants must be competent in many practice considerations before starting a private practice. Private practitioners must be proficient, able to communicate foundational practice knowledge and skilled in providing different treatment modalities. A non-exhaustive list of the minimum requirements for professional and ethical practice includes understanding:

- the limits of confidentiality;
- who can consent to services and the release of client information;
- how to handle requests to release information from the record;
- how to terminate ethically;
- what constitutes a conflict of interest or dual relationship;
- how to work as a contractor;
- how to provide and receive supervision;
- how to document what is essential to the care of the client; and
- when to consult with colleagues, a supervisor or a lawyer.

It should be noted that understanding these practice considerations does not predict clinical competence or readiness for private practice. Depending on the context, these requirements can also pose challenges for seasoned registrants. The intricacies of client issues and scenarios vary, and private practitioners must have the experience and skills to act independently in a difficult situation or crisis.

SCENARIO – PRIVATE PRACTICE AND PRIVACY LEGISLATION

A registrant consulted with Professional Practice staff because a client's lawyer contacted them and requested a copy of the client's file. The registrant explained that the client had not mentioned needing their record for any legal matters. Therefore, the registrant was unprepared for this request and unsure if they should release the file to the lawyer. The registrant did not have a supervisor that they could speak to about this issue.

During the consultation, the registrant explained that their client had not initially disclosed ongoing legal issues. The client revealed their involvement in a legal case as their work progressed. This became the focus of their work together, which was a shift from the initial scope of service. Professional Practice staff commented that client needs can evolve over the course of a professional relationship and asked how the registrant discussed the service parameters with the client. The registrant responded that a service agreement had not been officially discussed with the client. Professional Practice staff referred to the Standards of Practice, which explain that:

College registrants shall obtain informed consent from clients, where needed, before providing social work or social service work services, including but not limited to, by:

- providing accurate and complete information about the services available;
- explaining the advantages and disadvantages of receiving/not receiving services;
- describing the expectations and limitations of service;
- explaining clients' rights with respect to capacity, privacy and confidentiality;
- clarifying registrants' mandatory reporting obligations and other limits to confidentiality; and
- providing information in a way that is appropriate for the client's cognitive ability.⁴

The registrant commented that while they were aware of the client's involvement in legal proceedings, they did not foresee a request for the record by the client's lawyer. The registrant queried whether it was permitted to provide the record to the lawyer since they were representing the client. Professional Practice staff explained that due diligence is required even though the request came from the client's lawyer. "College registrants shall obtain client consent prior to each disclosure of information, where consent is required. Clients may sign consent forms or provide verbal consent; College registrants shall document that consent was obtained."⁵

⁴ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle III: Responsibility to Clients, interpretation 3.3.

⁵ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle V: Confidentiality, interpretation 5.2.1.

Professional Practice staff and the registrant further discussed that the most cautious course of action is for registrants to always be prepared for the client and/or their representatives to request to read or access copies of the client record. “Self-employed College registrants [such as private practitioners] and College registrants who are responsible for complying with privacy legislation shall establish and communicate to their clients clear policies regarding access to and correction of information in a record.”⁶

The registrant explained that due to the record’s content, they were concerned about releasing the client’s information and thought parts of the record could be detrimental to the legal case. Professional Practice staff referred to the Standards of Practice which explain “[i]f, in the registrant’s professional judgment, disclosure of information from the record to a third party could result in harm to the client, College registrants shall make a reasonable effort to inform the client of the possible consequences and seek to clarify the client’s consent to such disclosure. Registrants may disclose information from the record to third parties without the client’s consent only if disclosure is required or allowed by law.”⁷

Professional Practice staff also discussed that registrants routinely have conversations with their clients about the release of information from the record. In some situations, there may not be flexibility in what information is released from the record, such as fulfilling mandatory reporting obligations or being served a court order, warrant or subpoena.⁸ However, in many cases, clients have a choice in what information is shared. The Standards of Practice state the following:

When consent to the disclosure of information is required, College registrants shall make reasonable efforts to inform clients of the parameters of information to be disclosed, advise clients of the possible consequences of such disclosure, and inform clients of the following:

- who is requesting the information (name, title, employer and address);
- why the information is desired;
- how the receiving party plans to use the information;
- if the receiving party may pass the information on to a third party without the client’s consent;
- exactly what information is to be disclosed;
- the repercussions of giving or refusing to give consent;
- the expiration date of the consent if applicable; and
- how to revoke their consent.⁹

The registrant explained that they were more comfortable having a discussion with the client, rather than simply complying with the lawyer’s request. They would determine what information should be released from the record, and whether the record would be shared in its entirety. Professional Practice staff reminded the registrant of the Standards of Practice, which states “College registrants shall make reasonable efforts to ensure that the information disclosed is pertinent and relevant to the professional service for which clients have contracted. College registrants shall take reasonable steps to ensure that the information disclosed is as accurate, complete and up-to-date as is necessary for the purposes of the disclosure and shall clearly set out the limitations, if any, on the accuracy, completeness or up-to-date character of the information.”¹⁰

⁶ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle IV: The Social Work and Social Service Work Record, interpretation 4.3.3

⁷ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle IV: The Social Work and Social Service Work Record, interpretation 4.4.2.

⁸ Note that the extent to which a warrant, court order or subpoena may require the production of particular records and whether any limitations or redactions or other confidentiality requirements may apply is an issue on which registrants should seek legal advice, given that it may be necessary to interpret the meaning and scope of the warrant, court order or subpoena and there may potentially be competing professional and statutory obligations. This is a complicated issue, the analysis of which is beyond the scope of this article.

⁹ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle V: Confidentiality, interpretation 5.2.2. Note also that further issues may arise where the records sought include information relating to more than one client. The analysis of that further issue is beyond the scope of this article, but is addressed in OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle IV: The Social Work and Social Service Work Record, interpretations 4.3.9, 4.4.3 and 4.4.4.

¹⁰ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle V: Confidentiality, interpretation 5.2.3.

The registrant was also reminded of the necessity to document conversations with the client, outline their decision-making process and what information would be disclosed from the record. Professional Practice staff referred to the Standards of Practice, which explains:

College registrants shall inform clients early in their relationship of any limits of client confidentiality, including with respect to the client record. When clients or their authorized representatives provide consent to disclose their information to third parties, College registrants shall document this and disclose information from the record within a reasonable time. Consent shall be documented and must identify:

- (i) the information that is to be disclosed, for example a partial record, the entire record, or a summary of the registrant's contact with the client;
- (ii) the party or parties to whom the information is to be disclosed; and
- (iii) any limits to the consent.¹¹

Upon concluding the consultation, Professional Practice staff referenced the Standards of Practice, which states "College registrants shall be knowledgeable about the policies, legislation, programs and issues related to the communities, institutions and services in their areas of practice."¹² Like all College registrants, private practitioners must understand the legislation that applies to their practice. This includes privacy legislation that explains how to manage requests for information from the client record.

Lastly, the registrant was reminded that "College registrants shall engage in the ongoing process of self-reflection and evaluation of their practice and shall seek supervision and consultation when appropriate."¹³ Competent, private practice requires ongoing supervision and consultation, and "[t]he need

for supervision does not end after a certain period in practice, but evolves and continues throughout a member's career."¹⁴ The registrant agreed and stated that they would prioritize obtaining a supervisor.

DISCUSSION - CLINICAL COMPETENCE

The previous scenario is just one example derived from many Professional Practice consultations, which underscores the requirement for foundational knowledge in private practice. Not only do private practitioners need to understand the Standards of Practice and the legislation that applies to their practice, but they must also have adequate supervision and be skilled in providing clinical services.

Competence in clinical practice develops with experience and ongoing training in addition to a social work degree, social service work diploma, or equivalent education. It's important to note that varied degrees of clinical skills training are offered within academic settings, and many registrants receive most of their clinical experience from their practicum experience. Registrants must have competence in different clinical practices and interventions which only comes with time, supervision, and experience.

More information on clinical practice can be found in the Standards of Practice which outline definitions of counselling, psychotherapy services and the controlled act of psychotherapy. It is possible that throughout a private practice session, a registrant could move between any or all of these definitions, and distinguishing between the controlled act of psychotherapy and psychotherapy services could prove challenging in practice.¹⁵ Therefore, registrants are advised to assess their readiness for private practice by consulting the [Practice Guidelines for Performing the Controlled Act of Psychotherapy](#) checklist of considerations.

¹¹ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle IV: The Social Work and Social Service Work Record, interpretation 4.4.1.

¹² OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle II: Competence and Integrity, interpretation 2.1.6.

¹³ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle II: Competence and Integrity, interpretation 2.1.8.

¹⁴ OCSWSSW, *Practice Guidelines for Performing the Controlled Act of Psychotherapy*. 2017. https://www.ocswssw.org/wp-content/uploads/PG_Performing_Controlled_Act_Psychotherapy_Feb2018.pdf

¹⁵ Ibid.

CONCLUSION

College registrants are encouraged to review the College's Private Practice webpage which has many resources including Practice Notes, articles and a webinar titled "Preparing for Private Practice." Readiness for private practice evolves over time and requires effective experience, skills, knowledge and professional judgment. The decision to enter private practice should be made with great care and a profound

understanding that College registrants are in a position of power and are responsible for ensuring that clients are protected¹⁶ from incompetent and harmful practice.

¹⁶ OCSWSSW, The Code of Ethics and Standards of Practice, Third Edition, 2023, Principle II: Competence and Integrity, interpretation 2.2.