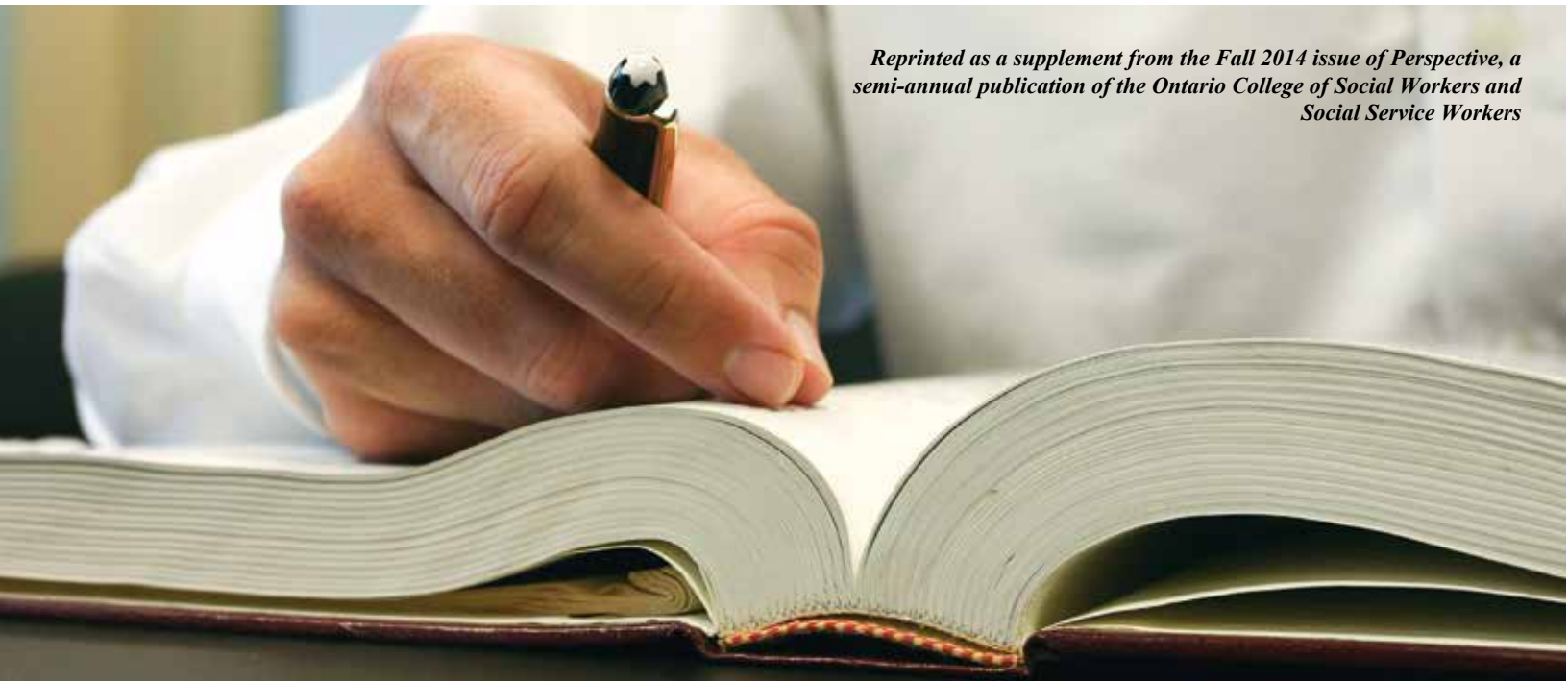




Practice Notes: Early Endings – Addressing the Challenges of Termination

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Practice Notes is designed as an educational tool 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 professional practice department and the Complaints Committee that may affect everyday practice. The notes offer general guidance only and members with specific practice inquiries should consult the College, since the relevant standards and appropriate course of action will vary depending on the situation.

Successful termination is a desired outcome for clients and members alike. It occurs when clients “achieve agreed-upon treatment goals” and end their work with members in a mutual, planned and thoughtful manner.¹ It is generally agreed that termination is not only an important phase in clinical practice, but also one which carries with it important ethical and clinical responsibilities.² Terminations arising from members’ sudden or unforeseen departure are generally more challenging, complex and difficult for both members and their clients.³ These Practice Notes discuss some of the ethical challenges faced by members when they change positions, move to another agency or are terminated by their employer. They also discuss members’ obligations

when ending with clients whose needs they can no longer meet, and/or who have become threatening or violent toward the member. Considerations related to finding suitable resources for clients and advocating effectively and appropriately on behalf of clients are also discussed.

TERMINATING APPROPRIATELY WHEN CHANGING POSITIONS

Cuts to social work and social service work positions, the prevalence of shorter-term contracts, and stretched resources are some of the factors which may contribute to an increasingly mobile social work and social service work workforce. Members may find themselves moving more frequently from one agency to another, leaving behind full

1 Vasques, Melba J.T., Rosie P. Bingham and Jeffrey E. Barnett “Psychotherapy Termination: Clinical and Ethical Responsibilities” in Journal of Clinical Psychology: In Session., Vol 64 (5), 653-665 (2008), p. 654.

2 Ibid., p. 653

3 Pearson, Quinn M. “Terminating before Counseling has ended: Counseling implications and strategies for counselor relocation” in Journal of Mental Health Counseling 20.1 (Jan 1998) 55-63

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caseloads. This mobility raises a number of ethical and logistical challenges. Consider the following scenario:

A member who had been working in a community-based counselling agency for a number of years called the Professional Practice Department after accepting a position elsewhere. The member wondered what the standards of practice required of her as she approached this transition. She had a large caseload, and was concerned about how she would manage to find appropriate resources for those clients who wanted to continue to receive service. The member also noted that services in her area were limited, and there had been some cuts to positions within the agency. Because she intended to continue her small private practice, she wondered whether it would be appropriate to continue with a small number of clients in that setting.

The standards of practice require College members to “distinguish their needs and interests from those of their clients to ensure that, within professional relationships, clients’ needs and interests remain paramount.”⁴ They must also “provide clients with accurate and complete information regarding the extent, nature, and limitations of any services available to them.”⁵ This includes providing information about the services provided, what the client can expect from the agency or organization and the member following the member’s departure, and any other implications of termination. Members continue to have a responsibility to clients as they prepare to change positions.

In scenarios such as the one described, it is important for members to recognize, and to acknowledge to clients, that the termination stems from the member’s decision rather than the client’s readiness to end; in fact, in many cases, it may not be desirable from the client’s perspective. Clinical

skill is required to accomplish the tasks of termination in these situations. This includes reviewing the work that they have accomplished together, discussing the client’s progress, referring the client to other resources, and ending the relationship appropriately.⁶

The standards of practice also require members to “engage in the process of self-review and evaluation of their practice and seek consultation when appropriate.”⁷ Consultation or supervision can provide important guidance about the clinical approach to be taken to the termination, as well as ideas about potential resources to which to refer clients. It could also be an important and appropriate place for members to examine their own reactions to managing multiple terminations in a short period of time.

Self-reflection on the part of the member is essential in ensuring that the member’s own feelings about the unplanned or sudden termination (which may include stress, anxiety, guilt and even relief) don’t negatively impact clients.

The standards of practice state that “(i)t is professional misconduct to discontinue professional services that are needed unless ... the client requests the discontinuation, the client withdraws from the service, reasonable efforts are made to arrange alternative or replacement services, (or) the client is given a reasonable opportunity to arrange alternative or replacement services.”⁸ Members must also make “reasonable efforts to hold a termination session with the client.”⁹ Members “who anticipate the termination ... of service to clients (must) notify clients promptly and arrange the termination, transfer, referral, or continuation of service in accordance with clients’ needs and preferences.”¹⁰

One of the biggest challenges that members may face is finding appropriate services for clients in communities where resources are limited. Sometimes, agencies seek

4 *Code of Ethics and Standards of Practice Handbook, Second Edition 2008*, Principle I: Relationship with Clients, interpretation 1.6

5 *Code of Ethics and Standards of Practice Handbook, Second Edition 2008*, Principle III: Responsibility to Clients, interpretation 3.1

6 Pearson, p. 56

7 *Code of Ethics and Standards of Practice Handbook, Second Edition 2008*, Principle II: Competence and Integrity, interpretation 2.1.5

8 *Ibid.*, interpretation 3.9

9 *Ibid.*, interpretation 3.9

10 *Ibid.*, interpretation 3.10

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to cope with funding cuts by limiting new hiring and/or not replacing workers who leave, thus making it difficult to transfer clients internally as well. Members seeking resources outside their agency may find that other agencies or services in their community are highly specialized, have long waiting lists and/or charge fees that clients may not be in a position to pay. They may also find that they are the only ones providing particular services in the area, making the task of transferring clients even more difficult.

Although members are not bound to find alternate services for their clients in every instance, they must make a reasonable effort to meet their clients' needs and assist them in obtaining other services. What is reasonable will depend on a number of factors, including their assessment of the client's needs and safety at the time of termination, the length of time that they were involved with the client, and the degree to which it would be challenging for the client to find alternate services without the member's assistance. Members should also provide an opportunity for clients to discuss the issues that arise for them as a result of the termination. Professional judgment must be used when assessing the form that these termination sessions should take. In some instances, phone contact may be the best and only option; in others, termination may be a longer, face-to-face process.

In the scenario above, it appeared that the member's consideration of her private practice as a referral option for some of her clients came from her desire to work in their best interests. Nevertheless, this course of action brings with it potential risks that the member should consider carefully. The standards of practice note that "College members (must) establish and maintain clear and appropriate boundaries in professional relationships"¹¹ and that they "do not solicit their employers' clients for private practice."¹² Referring clients to her private practice could put the member in violation of not only agency policy,

but also the College's standards of practice in several ways. First, members must ensure that their clients' needs and interests, rather than their own, are paramount.¹³ Because a private practice is a business which profits the member, the optics of this choice must be considered carefully. The member would want to avoid any perception that she was benefiting personally from her decisions.

Secondly, the member would need to consider whether her plan could create a dual relationship with her clients and/or could be considered a conflict of interest. Members must not "engage in professional relationships that constitute a conflict of interest or in situations in which members ought reasonably to have known that the client would be at risk in any way. College members do not provide a professional service to the client while the member is in a conflict of interest."¹⁴ Members must consider not only situations in which there is an actual conflict, but also those where there is "a reasonable apprehension" that their "personal, financial or other professional interest or obligation" might influence them in their professional decisions.¹⁵

Finally, the member would need to consider the confidentiality issues that might arise with such a course of action.¹⁶

As a result of her contact with Professional Practice staff, the member decided to consult with other social workers at her agency to ensure that she was aware of as many potential resources as possible, so that she could refer clients appropriately. She also decided to meet with her supervisor to discuss the challenges associated with multiple terminations, and to enlist the supervisor's support in making appropriate referrals. She felt clearer about her responsibilities and accepted that she may not be successful in finding alternative services for every one of her clients.

11 Code of Ethics and Standards of Practice Handbook, Second Edition 2008, Principle II: Competence and Integrity, interpretation 2.1

12 Code of Ethics and Standards of Practice Handbook, Second Edition 2008, Principle III: Responsibility to Clients, interpretation 3.3

13 Code of Ethics and Standards of Practice, Second Edition 2008, Principle I: Relationship with Clients, interpretation 1.6

14 Code of Ethics and Standards of Practice, Second Edition 2008, Principle II: Competence and Integrity, interpretation 2.2.1

15 A "reasonable apprehension" of conflict of interest will exist where a reasonable person, informed of all the circumstances, would have a reasonable expectation or concern (rather than merely a suspicion) that a personal, financial or other professional interest or obligation might influence the member in the exercise of his or her professional responsibilities. Code of Ethics and Standards of Practice, Second Edition 2008, Principle II: Competence and Integrity, Footnote 6

16 Code of Ethics and Standards of Practice Handbook, Second Edition 2008, Principle V: Confidentiality. Many interpretations related to this principle would be relevant.

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ADVOCATING FOR CLIENTS

Another less common but nevertheless serious challenge for members is associated with the abrupt termination of their employment, which may make termination with clients beyond the member's control:

A member of the College who had been working in a mental health setting for many years was shocked to learn that he had been terminated. He called the Professional Practice Department a few days after his termination, concerned about a number of his clients and his professional obligations. The member was upset that he had not been able to provide any explanation to his clients, nor had he been able to speak to his manager about clients at higher risk. The member wondered whether he should contact these clients in order to provide an explanation and link them with other resources.

As discussed above, members are required to make reasonable efforts to assist their clients to find alternate services as they prepare to leave an agency or organization. In this scenario, the member was unable to do so. However, the standards of practice also require members to "comply with any applicable privacy and other legislation"¹⁷. Once members have left an agency, they are no longer permitted to access, use or disclose any information related to their former clients. Doing so would be a serious breach of boundaries, confidentiality and privacy.¹⁸ The member in the scenario above may have other options, however. The standards note that social workers or social service workers "shall advocate for workplace conditions and policies that are consistent with the Code of Ethics and Standards of Practice ... (and) will use professional judgement in determining how to advocate".¹⁹ Such advocacy may take the form of documenting concerns and discussing them with a supervisor or manager, or other key person in the organization."²⁰ The member may wish to consider

communicating with his former manager or other appropriate person in the organization to express his concerns about his clients. This communication would be especially important for those clients with higher needs or at more risk. It could take the form of a telephone call or a memo, summarizing his involvement with his clients and his assessment of their needs at the time of his departure. As difficult as it may be to take this course of action, it would be a reasonable and professional way to ensure that he has taken every step possible to ensure his clients' well-being.

Because the member was understandably upset as a result of his abrupt termination, he had not considered that there might be options available to him to try to address his clients' needs. As a result of his consultation with the Professional Practice Department, he decided to draft a memo to his former supervisor, rather than attempting to contact his former clients directly.

WHEN THE MEMBER IS AT RISK

There may be times when members must terminate with clients for safety reasons, as in the following scenario:

A member in private practice contacted the Professional Practice Department seeking assistance in handling a challenging situation. The member explained that she had been working with a client for a number of months when it became apparent that the client's needs were outside her area of competence and beyond what could be provided in a private practice setting. She said that she made numerous efforts to refer the client for an outside assessment and more appropriate services, but the client refused to follow through. After seeking supervision, the member decided to terminate with the client. By the time the member called the College, she was feeling shaken by a number of threatening messages left by the client on her voicemail.

¹⁷ *Code of Ethics and Standards of Practice Handbook, Second Edition 2008*, Principle V: Confidentiality, interpretation 5.1

¹⁸ Many settings in which members are employed are bound by the *Personal Health Information and Privacy Act, 2004* (PHIPA). This legislation limits the collection, use and disclosure of personal health information to the Health Information Custodian (HIC), or agents of the HIC.

¹⁹ *Code of Ethics and Standards of Practice Handbook, Second Edition 2008*, Principle II: Competence and Integrity, footnote 10

²⁰ *Ibid.*, footnote 10

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While situations like this one may not occur frequently, it is important for members who believe that they are at personal risk from clients or former clients to take steps to address the situation immediately, by seeking consultation/supervision, obtaining a legal opinion and/or contacting police. Each situation must be addressed on a case-by-case basis, as the member must assess how real, severe and imminent the threat. While it is usually in the best interests of both the member and the client to terminate, it may be difficult for members to realize that they are at risk. They may feel intimidated by the prospects of terminating with a hostile, demanding or threatening client, and might therefore be inclined to continue the work in order to defuse the situation.²¹ Consulting with a lawyer and obtaining clinical supervision can assist the member in improving their objectivity, increasing their self-awareness and gaining valuable support in formulating an appropriate response.²²

The standards of practice recognize that there may be situations in which members are at risk and no longer in a position to provide service. They permit members to “discontinue professional services that are needed (if) ... continuing to provide the services would place the member at serious risk of harm.”²³ In addition to making the decision to terminate, the member in the above scenario would also need to consider (and obtain legal advice regarding) whether she had a common law “duty to warn” or whether provisions in the *Personal Health Information Protection Act*, 2004 (PHIPA) applied to the case. The common law “duty to warn” or a “duty to protect” may exist even if the identified victim is the member.²⁴ As described more fully in previous Practice Notes dealing with the disclosure of information without consent,²⁵ this is a determination that a member would have to make with legal advice, since the existence of a duty to warn is a

question of law and it is beyond the scope of this practice note and also outside the role of this College to provide members with legal advice. PHIPA also provides that personal health information may be disclosed without consent if the individual making the disclosure “believes on reasonable grounds (that) the information is needed to eliminate or reduce a serious risk of severe bodily harm to the client, another individual (including the member) or a group of persons”.²⁶ Again, the determination of whether this provision of PHIPA applies to a particular situation should be made by a member with legal advice.

Regardless of her decision with respect to her duty to warn or to disclose information to the police, the member would be well-advised to ensure that the legal advice she obtained assisted her in deciding how best to communicate with the client about the termination. Members should note that the standards of practice do not oblige the member to have a termination session with clients when they believe that doing so would put them at serious risk of harm.²⁷

In the scenario above, the member was relieved to learn that she was not bound by the standards of practice to find alternate services for the client. She decided to obtain a legal consult immediately, in order to determine how best to communicate to the client regarding the need to terminate and to stop the threatening behaviour.

IN CONCLUSION

This article has discussed some of the issues that members should consider when terminating with clients before the clinical work has come to an end. While “forced terminations”²⁸ may not be ideal from the perspective of either members or their clients, the standards of practice provide valuable guidance in addressing these situations in a sound, ethical and professional manner.

21 Davis, Denise and Jeffrey N. Younggren “Ethical Competence in Psychotherapy Termination” *Professional Psychology: Research and Practice* 2009, Vol. 40, No. 6, 572-578, p. 572

22 *Ibid.*, p. 573

23 Code of Ethics and Standards of Practice Handbook, Second Edition 2008, Principle III: Responsibility to Clients, interpretation 3.9

24 Regehr, C. and K. Kanani *Essential Law for Social Work Practice in Canada*. Second Edition. Don Mills, ON: Oxford University Press, 2010, page 155. The “common law” refers to the law developed by judges on a case-by-case basis, through legal precedents or decisions, rather than requirements arising from statutes or legislation.

25 Practice Notes called “Meeting Professional Obligations and Protecting Clients’ Privacy: Disclosure of Information Without Consent”, from the Spring 2013 Perspective newsletter, can be found under the Resource Room tab on the College website at www.ocswssw.org.

26 Privacy Toolkit for Social Workers and Social Service Workers, Guide to the Personal Health Information Protection Act, 2004 (PHIPA), Ontario College of Social Workers and Social Service Workers, 2005, page 30

27 Code of Ethics and Standards of Practice Handbook, Second Edition 2008, Principle III: Responsibility to Clients, interpretation 3. 9

28 Pearson, p. 55