



Work Stoppage

Guidelines for Members of the Ontario College of Social Workers and Social Service Workers

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Introduction

An impending work stoppage frequently triggers a flurry of calls to the College, especially from members who work in a unionized environment. Work stoppage evokes strong and often conflicting reactions and members may be unclear about what is expected of them in their professional practice. The purpose of this article is to assist members with dilemmas arising from a work stoppage and to clarify members' professional responsibility.

Responsibilities of Members

With an impending work stoppage, members may encounter situations in their work place that they believe are incompatible with their professional standards. The following interpretation found in Principle II of the Standards of Practice Handbook, Competence and Integrity, should be noted:

"2.2.10 If there is a conflict between College standards of practice and a College member's work environment, the College member's obligation is to the "Ontario College of Social Workers and Social Service Workers Code of Ethics" and the "Standards of Practice Handbook"."

In accordance with the Code of Ethics, maintaining the best interest of the client is the primary professional obligation. Members must consider the possible impact of work stoppage on clients and take appropriate action. A work stoppage may impact on professional services provided to new clients and existing clients. Members must address the needs and concerns of their clients. Principle III of the Standards of Practice Handbook, Responsibility to Clients, pertains to such issues.

With respect to providing service to new clients, interpretation 3.5 states:

"College members assist potential clients to obtain other services if members are unable or unwilling, for appropriate reasons, to provide the requested professional help."

With respect to providing service to existing clients, the following interpretations are pertinent:

"3.1 College members provide clients with accurate and

complete information regarding the extent, nature, and limitations of any services available to them."

"3.2 College members deliver client services and respond to client queries, concerns, and/or complaints in a timely and reasonable manner."

"3.6 College members inform clients of foreseeable risks as well as rights, opportunities, and obligations associated with the provision of professional services."

In addition, interpretation 3.10 states:

"3.10 College members terminate professional services to clients when such services are no longer required or requested. It is professional misconduct to discontinue professional services that are needed unless:

- i) the client requests discontinuation,
 - ii) the client withdraws from the service,
 - iii) reasonable efforts are made to arrange alternative or replacement services,
 - iv) the client is given a reasonable opportunity to arrange alternative or replacement services, or
 - v) continuing to provide the services would place the member at serious risk of harm,
- and in the circumstances described in subparagraph i, ii, iii, or iv, the member makes reasonable efforts to hold a termination session with the client."

As well as providing services to clients, where appropriate, members advocate for and/or with clients as stated in interpretation 3.12. Members should consider appropriate advocacy action such as contacting their supervisor or manager, senior administrators of the organization and their union representatives to ensure that the impact of a work stoppage on services to clients is minimized.

Work stoppage is rarely a neutral topic. In addition to reflecting on the issues and determining one's own stance, members will likely be aware of their colleagues' and/or administrators' opinions. These may clash. Members must ensure that clients are not affected either by their own views or by conflict with others in the workplace. The following interpretations found in Principle I of the Standards of Practice Handbook, Relationship to Clients, are applicable:

"1.5 College members are aware of their values, attitudes and needs and how these impact on their professional relationship with clients."

"1.6 College members distinguish their needs and interests from those of their clients to ensure that, within professional relationships, clients' needs and interests remain paramount."

Members should also be aware of the acts of professional misconduct defined in section 2 of the Professional Misconduct Regulation made under the Social Work and Social Service Work Act. In addition to paragraph 2 - "failing to meet the standards of the profession" - and paragraph 8 - "discontinuing professional services that are needed" unless specific criteria are satisfied (refer to interpretation 3.10 above), the following are defined as acts of professional misconduct:

Paragraph 12 - "Breaching a term of an agreement with a client relating to,

- i. the fees for professional services, or
- ii. professional services for the client."

Paragraph 28. - "Contravening the Act or regulations or by-laws."

Paragraph 29. - "Contravening a federal, provincial or territorial law or a municipal by-law if,

- i. the purpose of the law or by-law is to protect public health, or
- ii. the contravention is relevant to the member's suitability to practise."

Paragraph 36 - "Engaging in conduct or performing an act relevant to the practice of the profession that, having regard to all circumstances, would reasonably be regarded by members as disgraceful, dishonourable or unprofessional."

In particularly difficult situations, members may wish to obtain their own legal advice before deciding on a course of action.

Responsibilities of the OCSWSSW

As part of its duty to serve and protect the public interest, the College is required to have a formal complaints process. Anyone may submit in writing to the College's Complaints Committee a concern about the conduct or actions of a member that relate to professional misconduct, incompetence or incapacity. This means that a complaint may result from a member's action in relation to work stoppage.

Members about whom a complaint is filed are given notice

of the complaint and an opportunity to provide a written response. It is therefore prudent for members to identify and contemplate the relevant issues, to consider various courses of action and their possible consequences in order to be able to support their decisions with a sound rationale. Further information may be obtained from the College about the complaints process and the possible actions that the Complaints Committee may take.

Members should also be aware that employers are required to report to the College if they terminate the employment of a member of the College for reasons of professional misconduct, incompetence or incapacity. An employer must also make a report if the employer intended to terminate the employment of a member of the College for professional misconduct, incompetence or incapacity, but the employer did not do so because the member resigned. In summary, work stoppage confronts members with a number of dilemmas. Members are encouraged to be knowledgeable about the standards of practice and their professional obligations in order to make sound and ethical decisions. Members are encouraged to carefully consider issues from various perspectives and to ensure that clients' needs remain paramount.

For more information: Visit the College website at www.ocswws.org for the Code of Ethics and Standards of Practice Handbook, and to obtain more information about the Complaints Committee, Discipline Committee, Fitness to Practise Committee and mandatory reporting. To download a copy of the Professional Misconduct Regulation (Ontario Regulation 384/00) made under the Social Work and Social Service Work Act, 1998, visit www.e-laws.gov.on.ca.

For more information about this or other practice issues, please contact the Professional Practice Department at practice@ocswws.org

Please note that any references to the College's Standards of Practice in the article refer to the first edition of the Standards. The second edition of the Standards of Practice did not come into effect until July 2008.