

Ontario College of  
Social Workers and  
Social Service Workers



Ordre des travailleurs  
sociaux et des techniciens  
en travail social de l'Ontario

PROFESSIONAL • ETHICAL • QUALIFIED • ACCOUNTABLE

# Code of Ethics and Standards of Practice Handbook

**Second Edition – 2008**

**Includes amendments to the Standards of Practice, effective October 1, 2010, February 13, 2011, May 6, 2015 and January 1, 2018.**



# CODE OF ETHICS

The Ontario College of Social Workers and Social Service Workers regulates two professions, social workers and social service workers. The following sets out the Code of Ethics for members of the College:

- 1) A social worker or social service worker shall maintain the best interest of the client as the primary professional obligation;
- 2) A social worker or social service worker shall respect the intrinsic worth of the persons she or he serves in her or his professional relationships with them;
- 3) A social worker or social service worker shall carry out her or his professional duties and obligations with integrity and objectivity;
- 4) A social worker or social service worker shall have and maintain competence in the provision of a social work or social service work service to the client;
- 5) A social worker or social service worker shall not exploit the relationship with a client for personal benefit, gain or gratification;
- 6) A social worker or social service worker shall protect the confidentiality of all professionally acquired information. He or she shall disclose such information only when required or allowed by law to do so, or when clients have consented to disclosure;
- 7) A social worker or social service worker who engages in another profession, occupation, affiliation or calling shall not allow these outside interests to affect the social work or social service work relationship with the client;
- 8) A social worker or social service worker shall not provide social work or social service work services in a manner that discredits the profession of social work or social service work or diminishes the public's trust in either profession;
- 9) A social worker or social service worker shall advocate for workplace conditions and policies that are consistent with this Code of Ethics and the Standards of Practice of the Ontario College of Social Workers and Social Service Workers;
- 10) A social worker or a social service worker shall promote excellence in his or her respective profession;
- 11) A social worker or social service worker shall advocate change in the best interest of the client, and for the overall benefit of society, the environment and the global community.

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The 1983 and the 1994 Canadian Association of Social Workers (CASW) Codes of Ethics have been used with the permission of CASW. The Social Work Code of Ethics (1994) adopted by the CASW Board of Directors is effective January 1, 1994 and replaces the CASW Code of Ethics (1983).



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## EXPLANATORY NOTE

The purpose of the Standards of Practice is to provide assistance to members of the Ontario College of Social Workers and Social Service Workers and to promote excellence in their practice. The *Standards of Practice Handbook* sets out minimum standards of professional practice and conduct. This is in accordance with one of the objects of the College as stated in the *Social Work and Social Service Work Act, 1998* "to establish and enforce professional standards and ethical standards applicable to members of the College." For the purposes of the Act (Section 26), and the Professional Misconduct Regulation (Ontario Regulation 384/00), these standards have been approved in a by-law of the College as standards of practice for its members. The Standards of Practice are meant to be applied to members' practice in conjunction with any applicable legislation and with their professional judgement.

The *Standards of Practice Handbook* applies to the breadth and scope of social work practice and social service work practice. It is recognized that throughout the scope of practice for each profession, there are variations in approaches and that members vary their methods in response to the demands of a particular situation. The Principles and Interpretations contained within the *Standards of Practice Handbook* prescribe the basis on which professional practice is conducted in a sound and ethical manner.

### Meaning of Client

Social workers and social service workers provide services to a wide spectrum of clients or client systems. In the broad sense, the term "client" refers to any person or body that is the recipient of social work or social service work services. In defining the client or client system a member could ask the question: "To whom do I have an obligation in respect to the services I am providing?" The term client refers to an individual, a family, group, community, organization or government. In research, the client may be a participant and in education, the client may include students.<sup>1</sup>

### Types of Practice

Social workers and social service workers also provide a wide range of services that encompass direct and indirect practice and clinical and non-clinical interventions. Direct practice refers to professional activities on behalf of clients in which goals are reached through personal contact and immediate influence with those seeking services. Indirect practice refers to professional activities that do not involve immediate or personal contact with the client being served.<sup>2</sup> For social workers, clinical practice refers to the professional application of social work theory and methods to the treatment and prevention of psychosocial dysfunction, disability or impairment, including but not limited to emotional and mental disorders.<sup>3</sup> For social service workers, clinical practice refers to the professional application of social service work theory and methods to the treatment and prevention of social dysfunction, disability or impairment, including but not limited to emotional or mental disorders.

It is important to note that the contexts of practice may overlap. For example, a member may provide counselling (direct-clinical), information and referral (indirect-clinical) to the same client. A member may



provide social support to clients in a social-recreational group (direct-non-clinical) or may administer a human service program (indirect-non-clinical).

The *Standards of Practice Handbook* contains eight Principles. For each Principle, Interpretations are provided as standards that guide College members. All the standards apply to direct, indirect, clinical and non-clinical practice, unless otherwise stated in a particular standard. In the application of these Principles to their own practice situations, it is suggested that College members read and consider all eight Principles together as a whole. The Handbook is intended to expand upon the *Ontario College of Social Workers and Social Service Workers Code of Ethics* and provides standards to guide and assess the professional behaviour of College members and to adjudicate issues of professional practice.

This, the second edition of the *Standards of Practice Handbook*, reflects the ongoing nature of addressing not only complex issues, but the continuing evolution of social work and social service work practice. The College appreciates feedback from members with respect to the application of these standards. Comments may be brought to the attention of the Registrar of the College.

## FOOTNOTES

<sup>1</sup>Adapted from the College of Nurses of Ontario glossary

<sup>2</sup> From the *Social Work Dictionary* 4<sup>th</sup> edition by Robert L. Barker, NASW Press

<sup>3</sup> From the *Social Work Dictionary* 4<sup>th</sup> edition by Robert L. Barker, NASW Press



# ACKNOWLEDGEMENTS

This *Standards of Practice Handbook* is based on the *Professional Practice and Conduct Handbook* (3rd Edition, 1998) published by the Ontario College of Certified Social Workers. The Ontario College of Social Workers and Social Service Workers (OCSWSSW) would like to thank the Ontario College of Certified Social Workers for granting its permission to use the *Professional Practice and Conduct Handbook* as the basis for this *Standards of Practice Handbook*. The OCSWSSW would also like to acknowledge the report by David Sernick entitled “Recommendations to the Transitional Council of the College of Social Workers and Social Service Workers (December 1999)” prepared on behalf of the Association of Social Service Work Educators of Ontario and funded by the Academic Vice Presidents of Colleges of Applied Arts and Technology in Ontario.

Beginning in 2002 the Standards of Practice Committee undertook a multi-phase consultation process to review the standards of practice. The OCSWSSW thanks the many members and stakeholders who took part in the various phases of the consultation, as well as Anne Westhues and David Sernick for their conceptualization of social work and social service work practice and their efforts to ensure the applicability of the standards of practice to the breadth of social work and social service work practice. Finally, the College thanks the members of the Standards of Practice Committee for their diligence and hard work.

Rachel Birnbaum Ph.D., RSW  
President



This *Standards of Practice Handbook* applies to the profession of social work and the profession of social service work.

## SCOPE OF PRACTICE FOR SOCIAL WORK

The scope of practice of the profession of social work means the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal problems through the use of social work knowledge, skills, interventions and strategies, to assist individuals, dyads, families, groups, organizations and communities to achieve optimum psychosocial and social functioning and includes, without limiting the generality of the foregoing, the following:

- SW1 – The provision of assessment, diagnostic, treatment and evaluation services within a relationship between a social worker and a client;
- SW2 – The provision of supervision and/or consultation to a social worker, social work student or other supervisee;
- SW3 – The provision of social support to individuals and/or groups including relationship building, life skills instruction, employment support, tangible support including food and financial assistance, and information and referral services;
- SW4 – The provision of educational services to social work and social service work students;
- SW5 – The development, promotion, management, administration, delivery and evaluation of human service programs, including that done in collaboration with other professionals;
- SW6 – The provision of services in organizing and/or mobilizing community members and/or other professionals in the promotion of social change;
- SW7 – The provision of contractual consultation services to other social workers or professionals or organizations;
- SW8 – The development, promotion, implementation and evaluation of social policies aimed at improving social conditions and equality;
- SW9 – The conduct of research regarding the practice of social work, as defined in paragraphs (1) to (8) above; and
- SW10 – Any other activities approved by the College.



# SCOPE OF PRACTICE FOR SOCIAL SERVICE WORK

The scope of practice of the profession of **social service work** means the assessment, treatment, and evaluation of individual, interpersonal and societal problems through the use of social service work knowledge, skills, interventions and strategies, to assist individuals, dyads, families, groups, organizations and communities to achieve optimum social functioning and includes, without limiting the generality of the foregoing, the following:

- SSW1 – The provision of assessment, treatment and evaluation services within a relationship between a social service worker and a client;
- SSW2 – The provision of supervision and/or consultation to a social service worker or social service work student or other supervisee;
- SSW3 – The provision of social support to individuals and/or groups including relationship-building, life skills instruction, employment support, tangible support including food and financial assistance, and information and referral services;
- SSW4 – The provision of educational services to social service worker students;
- SSW5 – The development, promotion, management, administration, delivery and evaluation of human service programs, including that done in collaboration with other professionals;
- SSW6 – The provision of services in organizing and/or mobilizing community members and/or other professionals in the promotion of social change;
- SSW7 – The provision of contractual consultation services to other social service workers, or professionals; or organizations;
- SSW8 – The development, promotion, implementation and evaluation of social policies aimed at improving social conditions and equality;
- SSW9 – The conduct of research regarding the practice of social service work, as defined in paragraphs (1) to (8) above; and
- SSW10 – Any other activities approved by the College.

The Principles and Interpretations set out in the *Standards of Practice Handbook* are to be applied in the context of the scope of practice of each profession.



# PRINCIPLE I: RELATIONSHIP WITH CLIENTS

The social work relationship and the social service work relationship, as a component of professional service, are each a mutual endeavour between active participants in providing and using social work or social service work expertise, as the case may be. Clients and College members jointly address relevant social, organizational, and/or personal problems of concern to clients. The foundation of this professional orientation is the belief that clients have the right and capacity to determine and achieve their goals and objectives. The social work relationship and the social service work relationship are each grounded in and draw upon theories of the social sciences and social work or social service work practice, as the case may be.

## Interpretation

Clients and client systems with whom College members are involved include individuals, couples, families, groups, communities, organizations and government. The following fundamental practice principles arise from basic professional values. College members adhere to these principles in their relationships with clients.

- 1.1 College members and clients participate together in setting and evaluating goals. A purpose for the relationship between College members and clients is identified.
  - 1.1.1 Goals for relationships between College members and clients include the enhancement of a client's functioning and the strengthening of the capacity of clients to adapt and make changes.
- 1.2 College members observe, clarify and inquire about information presented to them by clients.
- 1.3 College members respect and facilitate self-determination in a number of ways including acting as resources for clients and encouraging them to decide which problems they want to address as well as how to address them.<sup>1</sup>
- 1.4 Although not compelled to accept clients' interpretation of problems, College members demonstrate acceptance of each client's uniqueness.
- 1.5 College members are aware of their values, attitudes and needs and how these impact on their professional relationships 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.



- 1.7 College members employed by organizations maintain an awareness and consideration of the purpose, mandate and function of those organizations and how these impact on and limit professional relationships with clients.

## FOOTNOTES

1. Limitations to self-determination may arise from the client's incapacity for positive and constructive decision-making, from law, from the order of any court of competent jurisdiction and from agency mandate and function.



## PRINCIPLE II: COMPETENCE AND INTEGRITY

College members maintain competence and integrity in their practice and adhere to the College standards in the *Ontario College of Social Workers and Social Service Workers Code of Ethics, the Standards of Practice Handbook* and the College's by-laws.

### Interpretation

#### 2.1 Competence

College members are committed to ongoing professional development and maintaining competence in their practice.

- 2.1.1 College members are responsible for being aware of the extent and parameters of their competence and their professional scope of practice and limit their practice accordingly.<sup>1</sup> When a client's needs fall outside the College member's usual area of practice, the member informs the client of the option to be referred to another professional. If, however, the client wishes to continue the professional relationship with the College member and have the member provide the service, the member may do so provided that:
- (i) he or she ensures that the services he or she provides are competently provided by seeking additional supervision, consultation and/or education and
  - (ii) the services are not beyond the member's professional scope of practice.

Recommendations for particular services, referrals to other professionals or a continuation of the professional relationship are guided by the client's interests as well as the College member's judgement and knowledge.

- 2.1.2 College members remain current with emerging social work or social service work knowledge and practice relevant to their areas of professional practice. Members demonstrate their commitment to ongoing professional development by engaging in any continuing education and complying with continuing competence measures required by the College.
- 2.1.3 College members maintain current knowledge of policies, legislation, programs and issues related to the community, its institutions and services in their areas of practice.
- 2.1.4 College members ensure that any professional recommendations or opinions they provide are appropriately substantiated by evidence and supported by a credible body of



professional social work knowledge or a credible body of professional social service work knowledge.<sup>2,3</sup>

- 2.1.5 As part of maintaining competence and acquiring skills in social work or social service work practice, College members engage in the process of self-review and evaluation of their practice and seek consultation when appropriate.

## 2.2 Integrity

College members are in a position of power and responsibility to all clients.<sup>4</sup> This necessitates that care be taken to ensure that these clients are protected from the abuse of such power during and after the provision of professional services.

College members establish and maintain clear and appropriate boundaries in professional relationships for the protection of clients. Boundary violations include sexual misconduct and other misuse and abuse of the member's power. Non-sexual boundary violations may include emotional, physical, social and financial violations. Members are responsible for ensuring that appropriate boundaries are maintained in all aspects of professional relationships.

- 2.2.1 College members do 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.<sup>5</sup> College members achieve this by:
  - (i) evaluating professional relationships and other situations involving clients or former clients for potential conflicts of interest and seeking consultation to assist in identifying and dealing with such potential conflicts of interest;
  - (ii) avoiding conflicts of interest and/or dual relationships with clients or former clients, or with students, employees and supervisees, that could impair members' professional judgement or increase the risk of exploitation or harm to clients<sup>6,7</sup>; and
  - (iii) if a conflict of interest situation does arise, declaring the conflict of interest and taking appropriate steps to address it and to eliminate the conflict.
- 2.2.2 College members do not have sexual relations with clients (See Principle VIII: Sexual Misconduct, especially Interpretations 8.6, 8.7 and 8.8 and footnote 1 thereto.) In other professional relationships, College members do not have sexual relations with any person where these relations, combined with the professional relationship, would create a conflict of interest. (See Interpretation 8.9 under Principle VIII: Sexual Misconduct)
- 2.2.3 College members do not use information obtained in the course of a professional relationship, and do not use their professional position of authority, to coerce, improperly



influence, harass, abuse or exploit a client, former client, student, trainee, employee, colleague or research subject.

2.2.4 College members do not solicit or use information from clients to acquire, either directly or indirectly, advantage or material benefits.

2.2.5 When a complaint investigation is underway or a matter has been referred to the Discipline Committee or the Fitness to Practise Committee for a hearing, College members co-operate fully with all policies and procedures of the Complaints, Discipline and Fitness to Practise Committees, and conduct themselves in a manner which demonstrates respect for both the complainant and the College.<sup>9</sup>

2.2.6 College members do not engage in the practice of social work or social service work,

i) while under the influence of any substance, or

ii) while suffering from illness or dysfunction,

which the member knows or ought reasonably to know impairs the member's ability to practise.

2.2.7 College members do not misrepresent professional qualifications, education, experience or affiliation. (See also Principle VI: Fees and Principle VII: Advertising)

2.2.8 In the practice of social work or social service work, College members avoid conduct which could reasonably be perceived as reflecting negatively on the professions of social work or social service work.

2.2.9 College members promote social justice and advocate for social change on behalf of their clients. College members are knowledgeable and sensitive to cultural and ethnic diversity and to forms of social injustice such as poverty, discrimination and imbalances of power that exist in the culture and that affect clients. College members strive to enhance the capacity of clients to address their own needs. College members assist clients to access necessary information, services and resources wherever possible. College members promote and facilitate client participation in decision making.<sup>9</sup>

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."<sup>10</sup>



## FOOTNOTES

1. The scope of practice statements describe the professions' scope of practice, but do not exclusively limit the performance of the activities described therein to social workers and social service workers. Such statements provide three types of information – what the profession does, the methods the profession uses, and the purpose for which the profession does it. There is a scope of practice statement for social work and a scope of practice statement for social service work set out in the *Standards of Practice Handbook*. Note that the scope of practice differs from a job description, in which an employer defines the parameters of the various roles and duties to be performed by social workers and social service workers they hire. An employer is not obligated to allow a social worker or social service worker to perform all of the activities described in the scope of practice statement. Additionally, an employer may require a social worker or social service worker to perform activities that are not described in their scope of practice provided that the College member is permitted by law to perform those activities and the College member is competent to do so.
2. "Evidence" refers to information tending to establish facts. For College members, evidence can include, but is not limited to: direct observation; information collected in clinical sessions; information collected in professional meetings; collateral information; information from documents; and information gathered from the use of clinical tools (eg. diagnostic assessment measures, rating scales).
3. Each of the phrases "body of professional social work knowledge" and "body of professional social service work knowledge" relates to both theoretical and practical understanding. A body of knowledge can be attained through education, professional experience, consultation and supervision, professional development and a review of relevant research and literature. Professional social work knowledge and professional social service work knowledge draw upon the knowledge base of other professions including sociology, psychology, anthropology, medicine, law and economics as well as their own respective distinct bodies of knowledge.
4. See the discussion of the term "client" in the Introductory Note to the Standards of Practice. While portions of Principle II refer separately to clients, students, employees and supervisees, the term "client" refers to any person or body that is the recipient of social work or social service work services, and may include students, employees and supervisees.
5. See, also, Principle VIII: Sexual Misconduct, Interpretation 8.5.
6. "Conflict of Interest" is defined as a situation in which a member has a personal, financial or other professional interest or obligation which gives rise to a reasonable apprehension that the interest or obligation may influence the member in the exercise of his or her professional responsibilities. **Actual** influence is not required in order for a conflict of interest situation to exist. It is sufficient if there is a **reasonable apprehension** that there **may** be such influence.

One of the hallmarks of a conflict of interest situation is that a reasonable person, informed of all of the circumstances, would have a reasonable apprehension (in the sense of reasonable expectation or concern) that the interest might influence the member. The influence need not be actual but may simply be perceived. However, a mere possibility or suspicion of influence is not sufficient to give rise to a conflict of interest. The interest must be significant enough to give rise to a "reasonable apprehension" that the personal, financial or other professional interest may influence the member in the performance of his or her professional responsibilities.

7. "Dual Relationship" is defined as a situation in which a College member, in addition to his/her professional relationship, has one or more other relationships with the client, regardless of whether this occurs prior to,



during, or following the provision of professional services. A dual relationship does not necessarily constitute a conflict of interest; however, where dual relationships exist, there is a strong potential for conflict of interest and there may be an actual or perceived conflict of interest. Relationships beyond the professional one include, but are not limited to, those in which the College member receives a service from the client, the College member has a personal, familial or business relationship with the client, or the College member provides therapy to students, employees or supervisees. Members embark on an evaluation of whether a dual relationship might impair professional judgment or increase the risk of exploitation or harm to clients.

8. College members are cognizant of their influential position with respect to witnesses or complainants in complaint, discipline and fitness to practise proceedings.
9. Where the client is competent and able to give instruction, advocacy should be on direction of the client.
10. A social worker or social service worker shall advocate for workplace conditions and policies that are consistent with the *Code of Ethics and Standards of Practice of the Ontario College of Social Workers and Social Service Workers*. A social worker or social service worker will use professional judgement in determining how to advocate. Such advocacy may take the form of documenting concerns and discussing them with a supervisor or manager, or other key person in the organization.



## PRINCIPLE III: RESPONSIBILITY TO CLIENTS

College members ensure that professional services are provided responsibly to those persons, groups, communities or organizations seeking their assistance.

### Interpretation

- 3.1 College members provide clients with accurate and complete information regarding the extent, nature, and limitations of any services available to them. (See also Principle VII: Advertising.)
- 3.2 College members deliver client services and respond to client queries, concerns, and/or complaints in a timely and reasonable manner.
- 3.3 College members do not solicit their employers' clients for private practice.<sup>1,2</sup>
- 3.4 College members do not discriminate against anyone based on race, ethnicity, language, religion, marital status, gender, sexual orientation, age, disability, economic status, political affiliation or national origin.<sup>3</sup>
- 3.5 College members assist potential clients to obtain other services if members are unable or unwilling, for appropriate reasons, to provide the requested professional help.<sup>4,5</sup>
- 3.6 College members inform clients of foreseeable risks as well as rights, opportunities, and obligations associated with the provision of professional services.
- 3.7 In a situation where a personal relationship does occur between the member and a client or former client, it is the member, not the client or former client, who assumes full responsibility for demonstrating that the client or former client has not been exploited, coerced or manipulated, intentionally or unintentionally.
- 3.8 College members may provide services and/or products so long as the provision of these services and/or products are relevant and conform to College standards. College members do not provide a service and/or product that the member knows or ought reasonably to know is not likely to benefit the client.
- 3.9 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 the 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.
- 3.10 College members who anticipate the termination or interruption of service to clients notify clients promptly and arrange the termination, transfer, referral, or continuation of service in accordance with clients' needs and preferences.
- 3.11 Where appropriate, College members advocate for and/or with clients and inform clients of any action taken and its outcome. Members adhere to Principle V: Confidentiality of this *Standards of Practice Handbook* when providing advocacy services.<sup>6</sup>
- 3.12 Members may provide appropriate services as a courtesy without remuneration, so long as these services adhere to College standards and do not constitute a conflict of interest.

## FOOTNOTES

1. The term employer also includes a person or organization with whom the member has an independent service contract.
2. College members may accept referrals from their employers.
3. College members adhere to the Ontario *Human Rights Code* and the *Charter of Rights and Freedoms* in the provision of services.
4. Appropriate reasons for refusing to provide service include but are not limited to:
  - i) complying with the potential client's request for service would require the member to violate ethical and legal requirements including, but not limited to: *the Ontario College of Social Workers and Social Service Workers Code of Ethics*, the *Standards of Practice Handbook*, the *Criminal Code of Canada*, the *Ontario Human Rights Code*, and the *Charter of Rights and Freedoms*;
  - ii) complying with the potential client's request would violate the member's values, beliefs and traditions to the extent that the member would not be able to provide appropriate professional service;
  - iii) the member is aware of extenuating circumstances (e.g. a planned absence from the office, serious health problems, relocation of practice, etc.) that would make compliance with the potential client's request for service impossible and/or not in the potential client's best interests;



- iv) the potential client is unable or unwilling to reimburse the member or the member's employer for services rendered, wherever such reimbursement is both appropriate and required as a condition of providing service;
  - v) the potential client has repeatedly, and without adequate explanation, cancelled or changed the interview or meeting time to the extent that the member experiences or believes that financial hardship and/or service disruption will occur; and
  - vi) the potential client behaves in a threatening or abusive manner such that the member believes that the safety of the member or anyone with whom the member has a personal or professional relationship would be in jeopardy.
5. When a client is refused further service, the client should be provided with an explanation.
6. "Advocacy" is defined as, "The act of directly representing or defending others; in social work, championing the rights of individuals or communities through direct intervention or through empowerment. According to the *NASW Code of Ethics*, it is a basic obligation to the profession and its members." The *Social Work Dictionary* 2nd edition, Robert L. Barker, 1991. This definition applies equally to social service work.



## PRINCIPLE IV: THE SOCIAL WORK AND SOCIAL SERVICE WORK RECORD

The creation and maintenance of records by social workers and social service workers is an essential component of professional practice. The process of preparation and organization of material for the record provides a means to understanding the client and planning the social work and social service work intervention. The purpose of the social work and social service work record is to document services in a recognizable form in order to ensure the continuity and quality of service, to establish accountability for and evidence of the services rendered, to enable the evaluation of service quality, and to provide information to be used for research and education. College members ensure that records are current, accurate, contain relevant information about clients and are managed in a manner that protects client privacy and in accordance with any applicable privacy and other legislation.<sup>1,2</sup>

### Interpretation

#### 4.1 Record Content and Format

- 4.1.1 Recorded information conforms with accepted service or intervention standards and protocols within the profession of social work and social service work, relevant to the services provided, and is in a format that facilitates the monitoring and evaluation of the effects of the service/intervention.<sup>3</sup>
- 4.1.2 College members do not make a statement in the record, or in reports based on the record, or issue or sign a certificate, report or other document in the course of practising either profession that the member knows or ought reasonably to know is false, misleading, inaccurate or otherwise improper.
- 4.1.3 College members keep systematic, dated, and legible records for each client or client system served.
- 4.1.4 The record reflects the service provided and the identity of the service provider. Members use the designation “RSW”, or one of the titles “Social Worker” or “Registered Social Worker”, in the case of a social worker, or the designation “RSSW”, or one of the titles “Social Service Worker” or “Registered Social Service Worker”, in the case of a social service worker, and comply with any requirements set out in any applicable legislation, in documentation used in connection with their practice of social work or social service work, as the case may be.<sup>3,1</sup>



- 4.1.5 College members document their own actions. College members do not sign records or reports authored by any other person, except in accordance with Interpretation 4.1.5.1 or 4.1.5.2.
- 4.1.5.1 A College member may sign a record or report authored by another person where the College member co-signs that record or report, together with the author,
- (i) in the College member's capacity as a supervisor of the author of the record or report; or
  - (ii) in the College member's capacity as an authorized signing officer of a professional corporation, where the author of the record or report is an employee, shareholder, officer or director of that professional corporation; or
  - (iii) in College member's capacity as a member of a multi-disciplinary team that participated in providing the observations and recommendations contained in the record or report, where the author of the record or report is also a member of that multi-disciplinary team.
- 4.1.5.2 A College member may sign a record or report authored by another person where the author is unable to sign the record or report due to illness, disability, absence or other good cause, provided that:
- (i) the content of the record or report is within the member's scope of practice;
  - (ii) the author expressly authorizes the member to sign the record or report on the author's behalf or, if such authorization is not reasonably available, the member takes steps to ensure the currency and accuracy of the information and recommendations contained in the record or report;<sup>4</sup> and
  - (iii) the member clearly indicates the capacity in which he or she is signing the record or report.<sup>5</sup>
- 4.1.6 Information is recorded when the event occurs or as soon as possible thereafter.
- 4.1.7 College members may use documentation by exception system provided that the system permits the total record to capture the minimum content as set out in Footnote 3.



## 4.2 Record Maintenance

- 4.2.1 College members comply with the requirements regarding record retention, storage, preservation and security set out in any applicable privacy and other legislation. College members employed by an organization acquire and maintain a thorough understanding of the organization's policies with regard to the retention, storage, preservation and security of records. Self-employed College members and College members who are responsible for complying with privacy legislation establish clear policies relating to record retention, storage, preservation and security.<sup>6</sup>
- 4.2.2 College members take necessary steps to protect the confidentiality and security of paper records, faxes, electronic records and other communications.<sup>7</sup>
- 4.2.3 College members ensure that each client record is stored and preserved in a secure location for at least seven years from the date of the last entry or, if the client was less than eighteen years of age at the date of the last entry, at least seven years from the day the client became or would have become eighteen. Different periods of storage time may be required by law. Longer periods of storage time may be defined by the policies of a member's employing organization or by the policies of a self-employed member or a member who is responsible for complying with privacy legislation.<sup>8</sup> Such policies should be developed with a view to the potential future need for the record.<sup>9</sup>
- 4.2.4 Self-employed College members, and College members who are responsible for complying with privacy legislation<sup>10</sup>, who cease practice may (i) maintain their client records in accordance with Interpretation 4.2.3, or (ii) make arrangements to transfer the records to another College member or other regulated professional who first agrees in writing to comply with Principle IV and the Interpretations set out in Principle IV and make reasonable efforts to give notice to their clients of the future location of their records, unless they are required, under any applicable privacy or other legislation, to obtain their clients' consent to such transfer, in which case they obtain their clients' consent. College members comply with the requirements regarding transfer of records set out in any applicable privacy and other legislation. The College member to whom such records have been transferred complies with the principles regarding retention, storage, preservation and security with respect to the transferred records.
- 4.2.5 Client records may be destroyed following the time frames outlined in Interpretation 4.2.3. College members dispose of record contents in such a way that ensures that the confidentiality of the information is not compromised.



### 4.3 Access and Correction of a Record

- 4.3.1 College members comply with the requirements regarding access to and correction of client information including personal information in a record as set out in applicable privacy and other legislation.<sup>11</sup> College members employed by an organization acquire and maintain an understanding of the organization's policies regarding access to and correction of information in a record. Such policies pertain to access requests by the clients themselves. Self-employed College members and College members who are responsible for complying with privacy legislation<sup>12</sup> establish clear policies regarding access to and correction of information in a record.
- 4.3.2 College members inform clients of their policies regarding access to and correction of information in a record.
- 4.3.3 A College member provides the client or his or her authorized representative with access to the client's information contained in the record in accordance with any applicable privacy and other legislation, unless prohibited by law or the member is otherwise permitted to refuse access.<sup>13</sup> In the absence of any applicable legislation, a College member provides the client or his or her authorized representative with reasonable, supervised access to the client's record or such part or parts of the record as is reasonable in the circumstances. The client has the right to receive appropriate explanations by the College member of the information about the client in the record.
- 4.3.4 Where a member is prohibited by law from providing access to information in a record or is otherwise permitted to refuse access to information in a record, the College member complies with the requirements regarding a refusal to provide access set out in applicable privacy and other legislation. In the absence of any applicable legislation, the College member informs the client of the reason for refusal of access and of the recourse available to the client if he or she disagrees. When the record includes information that pertains to more than one client, and providing access to a record could therefore mean disclosing information about another person, a College member provides access to information that pertains only to the individual who has requested access unless the other person(s) has consented to the disclosure of information about the person.
- 4.3.5 College members preserve the integrity of client records. If a client disagrees with the accuracy or completeness of information in a record and wishes the record amended, the member shall comply with the requirements of any applicable privacy and other legislation with respect to the correction of the record. In the absence of any applicable legislation, if a client disagrees with the accuracy or completeness of a record and wishes the record amended, the member may incorporate into the record a signed statement by the client specifying the disagreement and the client's correction. The member shall not obliterate any incorrect information in the record.



#### 4.4 Disclosure of Information from a Record

- 4.4.1 College members 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 consent in writing, College members disclose information from the record to third parties within a reasonable time. The consent must specify, (i) the information that is to be disclosed, for example a partial record, the entire record, or a summary of the member's contact with the client, (ii) the party or parties to whom the information is to be disclosed and (iii) the term of validity of the consent. If, in the member's professional judgement, disclosure of information from the record to a third party could result in harm to the client, College members make a reasonable effort to inform the client of the possible consequences and seek to clarify the client's consent to such disclosure. Members may disclose information from the record to third parties without the client's consent only if disclosure is required or allowed by law. (See also Interpretations 5.3.5 and 5.3.6)
- 4.4.2 When College members receive a request from a third party to disclose information from a record that pertains to more than one client, for example a couple, family, group, community agency, government department, or other organization/business, College members obtain consent to the disclosure of information from all of the clients before information from such record is disclosed to the third party. When College members receive a request from a client to disclose information from a record that pertains to more than one client, College members provide access to information that pertains only to the client who has requested access (see Interpretation 4.3.3) and, before disclosing information that pertains to any other client, obtain consent to the disclosure from each of them.
- 4.4.3 College members who are served with a formal notice or subpoena to produce client records before a court and who are of the opinion that disclosure would be detrimental to the client, should themselves, or through legal counsel, advocate for non-disclosure to the court.<sup>14</sup>
- 4.4.4 College members comply with the requirements regarding use or disclosure of information for research or educational purposes set out in any applicable privacy and other legislation. In the absence of any applicable legislation, College members may permit client records to be used for the purpose of research or education, provided that any identifying information has been removed and clients' anonymity is protected.<sup>15</sup> (See also Interpretation 5.6)
- 4.4.5 A College member or other regulated professional to whom another College member's client records have been transferred, complies with the aforementioned standards regarding access and disclosure with respect to the transferred records.<sup>16</sup>



## FOOTNOTES

1. Social work and social service work records include any or all of the following: reports (handwritten, typed, or electronic); progress notes; checklists; correspondence; minutes; process logs; journals or appointment records; films and audio or video tapes. The tools or data used by the College member in developing a professional opinion may be or need not be included in the record. Such tools may be personal notes, memos or messages, test results, sociograms, genograms, etc. Once placed in the record, however, they become an integral part of that record. If they are kept separate from the record, the College member observes the same standards with respect to confidentiality, security and destruction as with the social work and social service work record.
2. An accurate record will:
  - (a) document the client's situation/problem exactly and contain only information that is appropriate and useful to the understanding of the situation and the management of the case;
  - (b) report impartially and objectively the factors relevant to the client's situation. The record clearly distinguishes the College member's observations and opinions from the information reported by the client;
  - (c) be easily understandable, avoiding vague, unclear or obscure language and symbols;
  - (d) identify corrections;
  - (e) be free of prejudice and discriminatory remarks;
  - (f) identify sources of data.
3. Information in the social work and social service work record with respect to each client includes the following:
  - (a) Identifying information regarding the recipient of services (individual, family, couple, group, agency, organization, community);  
Depending on the nature of the services provided, identifying information may include:
    - i) name, address, telephone number of each client(s);
    - ii) date of birth of each client(s);
    - iii) where indicated in risk situations, name, address, and telephone number of a person(s) to be contacted in case of emergency;
    - iv) name, address, telephone number(s) of the main contact person or position, if different from i); and
    - v) sponsors, funders, accountability.
  - (b) The date, initiator, purpose of the social work or social service work referral, where relevant, and, if significant, the setting of the first professional encounter with the client;
  - (c) Where applicable, the key elements of the contract or working agreement, namely: client, contracted services, provider of services, fee, reimbursement schedule, and time period for completion of services;
  - (d) The time period of involvement if not specified in (c);
  - (e) The date of completion/termination, where relevant, and if significantly different from (c), an explanation for the difference;
  - (f) Particulars of the social work or social service work process, as applicable:
    - i) the history obtained by the member;
    - ii) assessment, diagnosis, formulation and plan;
    - iii) treatment and other interventions, e.g. facilitation, advocacy, transfer of skills, development of action plans;
    - iv) outcome or results, mutual review and evaluation;
    - v) referrals made by the member;
    - vi) recommendations; and
    - vii) other services, e.g. verbal and/or written reports/briefs/analyses, research studies and/or their individual components, presentations/speeches/lectures, management related services, stakeholder consultations and professional opinions.
  - (g) Consents, releases or authorizations pertaining to the intervention or the communication of information about the client;
  - (h) Fees and charges administered, if any.



- 3.1 For example, the *Social Work and Social Service Work Act*, 1998 sets out the conditions that must be met in order for a member of the College who holds an earned doctorate in social work, as defined in subsection 47.3(2) of the *Social Work and Social Service Work Act* 1998, to use the title "doctor", a variation, abbreviation or an equivalent in another language (See also Footnotes 1 and 1.1 of Principle VII)
  
- 4. Where the member signs the record or report with the author's express authorization, the member shall sign the author's name (in quotation marks) to the record or report, followed by the member's name, and a statement indicating that the member is signing the record or report on behalf of the author, as follows:  
["author's name"] by [member's name], on behalf of [author's name].  
Where such express authorization is not reasonably available and the member has therefore taken steps to ensure the currency and accuracy of the information and recommendations contained in the record or report, the member shall sign his or her own name to the record or report.
  
- 5. See Footnote 4, above. By signing the report in his or her own name, the member is effectively endorsing the currency and accuracy of the information and recommendations in the record or report. In contrast, by signing the report in the author's name, with the author's express authorization, the member is not endorsing the currency and accuracy of the information and recommendations in the record or report, but is only signing on behalf of the author.
  
- 6. See Footnote 3 of Principle V for a discussion of "College members who are responsible for complying with privacy legislation".
  
- 7. Client records, whether they are paper files or electronic files such as computer diskettes, are kept in an area that is not accessible to persons who have no legitimate interest in the records, and where the privacy of the records may be secured by lock and key.

When sending faxes that contain client information, the College member ensures that the information is marked confidential and that the information has been received by the people for whom it was intended.

An electronic system containing social work and social service work records has the following security features:

- (a) In the event of a shared system, the College member has a private access code or password that provides reasonable protection against unauthorized access;
  - (b) The system maintains an audit trail that:
    - i) records the date and time of each entry of information for each client;
    - ii) indicates any changes in the recorded information; and
    - iii) preserves the original content of the recorded information when changed or updated;
  - (c) The system allows for the recovery of files, or otherwise provides reasonable protection against loss of, damage to, and inaccessibility of information;
  - (d) The system provides for a paper printout of the record.
- 
- 8. See Footnote 3 of Principle V for a discussion of "College members who are responsible for complying with privacy legislation".
  - 9. Examples of situations in which records may be retained for longer periods include cases such as sexual abuse, accidents involving minors and situations where litigation may be ongoing or may arise in the future.
  - 10. See Footnote 3 of Principle V for a discussion of "College members who are responsible for complying with privacy legislation".
  - 11. Privacy legislation, such as the federal *Personal Information Protection and Electronic Documents Act* and the *Ontario Personal Health Information Protection Act*, 2004, sets out rules respecting the collection, use and disclosure of personal information or personal health information and an individual's right of access to personal information or personal health information about the individual.
  - 12. See Footnote 3 of Principle V for a discussion of "College members who are responsible for complying with privacy legislation".



13. Determining whether a person is a client's authorized representative may depend on the governing legislation and the particular circumstances. For example, under the Personal Health Information Protection Act, 2004 ("PHIPA") determining whether a person is authorized to exercise powers on someone else's behalf depends on the circumstances: whether the individual is capable and at least sixteen, whether the individual is deceased, whether the individual is mentally incapable of making decisions, whether the individual is a child under the age of sixteen, or whether an Act (provincial or federal) authorizes a person to act on behalf of another person. PHIPA provides rules on who is authorized to exercise powers on someone else's behalf in each of these circumstances.
14. College members comply with any specific requirements for disclosure of a record or other information pursuant to a summons, order, direction or similar requirement that are set out in legislation, such as the *Mental Health Act*, *Long-Term Care Act*, 1994, *Child and Family Services Act* and the Criminal Code.
15. 'Identifying information' means information that identifies an individual or for which it is reasonably foreseeable in the circumstances that it could be utilized, either alone or with other information, to identify an individual.
16. Before a College member is permitted to transfer his or her client records to another regulated professional, the regulated professional must first agree in writing to comply with Principle IV and the Interpretations set out in Principle IV. See Interpretation 4.2.4



## PRINCIPLE V: CONFIDENTIALITY

College members respect the privacy of clients by holding in strict confidence all information about clients and by complying with any applicable privacy and other legislation. College members disclose such information only when required or allowed by law to do so or when clients have consented to disclosure.

### Interpretation

- 5.1 College members comply with any applicable privacy and other legislation.<sup>1</sup> College members obtain consent to the collection, use or disclosure of client information including personal information,<sup>2</sup> unless otherwise permitted or required by law.
- 5.2 College members employed by an organization acquire and maintain a thorough understanding of the organization policies and practices relating to the management of client information, including:
  - (a) when, how and the purposes for which the organization routinely collects, uses, modifies, discloses, retains or disposes of information;
  - (b) the administrative, technical and physical safeguards and practices that the organization maintains with respect to the information;
  - (c) how an individual may obtain access to or request correction of a record of information about the individual; and
  - (d) how to make a complaint about the organization's compliance with its policies and practices. Self-employed College members and College members who are responsible for complying with privacy legislation<sup>3</sup> establish clear policies and practices relating to the management of client information, including the matters identified in (a), (b), (c) and (d) above, and make information about these policies and practices readily available in accordance with any applicable privacy and other legislation.
- 5.3 College members shall not disclose information concerning or received from clients, subject to any exceptions contained in the following interpretation.
  - 5.3.1 When College members are employed by an agency or organization, College standards of confidentiality may conflict with the organization's policies and procedures concerning confidentiality. Where there is a conflict, College standards take precedence.<sup>4</sup>
  - 5.3.2 When in a review, investigation or proceeding under the Act in which the professional conduct, competency or capacity of a College member is in issue, the member and, where the member is practising on behalf of a professional corporation, the professional



corporation may disclose such information concerning or received from a client as is reasonably required by the member or the College or, where applicable, the professional corporation, for the purposes of the review, investigation or proceeding, without the client's consent. College members and professional corporations do not divulge more information than is reasonably required.

- 5.3.3 When disclosure is required or allowed by law or by order of a court, College members do not divulge more information than is required or allowed.
- 5.3.4 College members wishing to use collection agencies or legal proceedings to collect unpaid fees may disclose, in the context of legal proceedings, only the client's name, the contract for service, statements of accounts and any records related to billing. College members do not divulge more information than is reasonably required. (See also Interpretation 6.1.3.)
- 5.3.5 When consent to the disclosure of information is required, College members make reasonable efforts to inform clients of the parameters of information to be disclosed and to advise clients of the possible consequences of such disclosure.<sup>5</sup>
- 5.3.6 College members do not disclose the identity of and/or information about a person who has consulted or retained them unless the person consents. Disclosure without consent is justified if the disclosure is required or allowed by law.<sup>6</sup> (See also Interpretation 4.4.1.)
- 5.3.7 In clinical practice, College members have clients sign completed consent forms prior to the disclosure of information, where consent is required. A separate consent form is required to cover each authorization for disclosing client information. In urgent circumstances, a verbal consent by the client to the disclosure of information may constitute proper authorization. The member should document that this consent was obtained.
- 5.3.8 College members make reasonable efforts to ensure that the information disclosed is pertinent and relevant to the professional service for which clients have contracted and take reasonable steps to ensure that the information is accurate, complete and up-to-date as is necessary for the purposes of the disclosure or clearly set out the limitations, if any, on the accuracy, completeness or up-to-date character of the information.
- 5.4 College members inform clients early in their relationship of the limits of confidentiality of information. In clinical practice, for example, when social work service or social service work service is delivered in the context of supervision or multi-disciplinary professional teams, College members explain to clients the need for sharing pertinent information with supervisors, allied professionals and paraprofessionals, administrative co-workers, social work or social service work students, volunteers and appropriate accreditation bodies. College members respect their clients' right to withhold or withdraw consent to, or place



conditions on, the disclosure of their information.<sup>7</sup> (See also Principle IV: The Social Work and Social Service Work Record.)

- 5.5 College members in indirect non-clinical practice distinguish between public and private information related to their clients. Public information, as defined below, may be disclosed in the appropriate circumstances.
  - 5.5.1 'Public information' is any information about clients and/or their activities that is readily available to the general public and the disclosure of which could not harm the client. 'Public Information' does not include personal information about an individual. When in doubt, the College member obtains consent from the client or a duly authorized representative before using or disclosing such information.<sup>8</sup>
  - 5.5.2 When working with community groups, government agencies and other organizations, the College member keeps confidential any information about the personal lives, personalities, and personal behaviour of the individuals involved.
  - 5.5.3 The College member also keeps confidential any other sensitive information about such clients, including human resources, financial, managerial, strategic and/or politically sensitive material, the disclosure of which could harm the client.
- 5.6 College members obtain clients' consent before photographing, audio or video taping or permitting third party observation of clients' activities. <sup>9</sup> College members comply with the requirements regarding use or disclosure of information for research or educational purposes set out in any applicable privacy and other legislation. In the absence of any applicable legislation, where case scenarios are presented for research, educational or publication purposes, client confidentiality is ensured through the alteration and disguise of identifying information. (See also Interpretation 4.4.4.)
- 5.7 College members may use public information and/or non-identifying information for research, educational and publication purposes.
- 5.8 College members are aware of the distinction between consultation and supervision as it pertains to sharing client information. In consultation, clients are not identified.



## FOOTNOTES

1. Privacy legislation includes the federal *Personal Information Protection and Electronic Documents Act*, the federal *Privacy Act*, the *Personal Health Information Protection Act, 2004*, the *Freedom of Information and Protection of Privacy Act* and the *Municipal Freedom of Information and Protection of Privacy Act*.
2. 'Personal information' means information about an identifiable individual and includes personal health information.
3. College members who are responsible for complying with privacy legislation include College members who are "health care practitioners" (within the meaning of the *Personal Health Information Protection Act, 2004*) and are employed or retained by persons who are not "health information custodians" (within the meaning of *the Personal Health Information Protection Act, 2004*). Examples include social workers or social service workers who provide health care as part of their duties and are employed by children's aid societies, social workers or social service workers who provide health care as part of their duties and are employed by a supportive housing provider and social workers or social service workers who provide health care as part of their duties and are employed by government bodies to provide services in correctional facilities or youth justice facilities.
4. See "Ontario College of Social Workers and Social Service Workers Code of Ethics", "A social worker or social service worker shall maintain the best interest of the client as the primary professional obligation."
5. In clinical practice the College member makes reasonable efforts to inform the client of at least the following:
  - a) who wants the information (name, title, employer and address);
  - b) why the information is desired;
  - c) how the receiving party plans to use the information;
  - d) if the receiving party may pass the information on to yet a third party without the client's consent;
  - e) exactly what information is to be disclosed;
  - f) the repercussions of giving consent or refusing permission for the disclosure;
  - g) the expiration date of the consent;
  - h) how to revoke the consent.

For further information, see Steven Shardlow, "The Boundaries of Client-Worker Relationship" in Richard Hugman and David Smith, eds., *Ethical Issues in Social Work*, (London and New York: Routledge, 1995) p.66.
6. For example, *the Personal Health Information Protection Act, 2004* ("PHIPA") provides a number of circumstances where it is permitted for a person who is a "health information custodian" (within the meaning of PHIPA) to disclose personal health information without consent. These circumstances include disclosure to the College for the purpose of the administration or enforcement of the *Social Work and Social Service Work Act, 1998* and disclosure to the Public Guardian and Trustee or a children's aid society so that they can carry out their statutory functions.
7. College members anticipate circumstances which may limit confidentiality. Clear discussion of these limits and contracting for confidentiality with the team, group or community should be undertaken. Individual clients should be aware, however, that, if their confidentiality is violated by another group member, there may not be legal recourse.
8. For example, in indirect non-clinical practice College members should obtain the client's consent before:



- a) publishing reports about their work with the client;
  - b) referring to their work with the client in their advertising;
  - c) speaking with media, funders, potential funders and other individuals/groups about the organization, agency or community; and
  - d) bringing guests, observers, or media to meetings involving the client.
9. Exceptions may be allowed under law, for example, in child abuse investigations.



## PRINCIPLE VI: FEES

When setting or administering fee schedules for services performed, College members inform clients fully about fees, charges and collection procedures.

### Interpretation

- 6.1 College members do not charge or accept any fee which is not fully disclosed.
  - 6.1.1 College members explain in advance or at the commencement of a service the basis of all charges, giving a reasonable estimate of projected fees and disbursements, pointing out any uncertainties involved, so that clients may make informed decisions with regard to using a member's services.<sup>1</sup>
  - 6.1.2 College members discuss and renegotiate the service contract with clients when changes in the fee schedule are anticipated.
  - 6.1.3 College members ensure that fee schedules clearly describe billing procedures, reasonable penalties for missed and cancelled appointments or late payment of fees, the use of collection agencies or legal proceedings to collect unpaid fees and third party fee payments.<sup>2</sup> (See also Interpretation 5.3.4)
  - 6.1.4 College members may reduce, waive or delay collecting fees in situations where there is financial hardship to clients, or they may refer clients to appropriate alternative agencies so that clients are not deprived of professional social work or social service work services.<sup>3,4</sup>
  - 6.1.5 College members do not charge fees on the basis of material or financial benefits accruing to clients as a result of services rendered or fees which are excessive in relation to the service performed.
  - 6.1.6 College members do not accept or give commissions, rebates, fees, other benefits or anything of value for receiving or making a referral of a client to or from another person.
  - 6.1.7 College members seek an agreement, preferably in writing, dealing with the provisions of Interpretations 6.1.1 to 6.1.5 inclusive, at the time of contracting for service with a client.



## FOOTNOTES

1. These charges may be based on such factors as the amount of time and effort required and spent, the complexity of the matter and whether a special skill, expertise or service has been required and provided.
2. Interest on late payments should be expressed as an annualized rate.
3. College members who accept barter payments are aware of the potential conflict of interest and taxation issues that this style of payment may create. College members avoid this method of payment if it constitutes a conflict of interest.
4. College members are not expected to reduce their fees unless required to do so by the policy of the agency by whom they are employed. College members may request that the client notify the member immediately if any circumstances arise that may interfere with the normal payment of fees.



## PRINCIPLE VII: ADVERTISING

Advertising is intended to inform and educate the public about available social work and social service work services. College members ensure that advertisements are compatible with the standards and ethics of the social work and social service work professions.

### Interpretation

- 7.1 College members may advertise their services through public statements, announcements, advertising media and promotional activities provided that these:
  - 7.1.1 are not false or misleading, and that any factual information is verifiable;
  - 7.1.2 do not bring the professions or College into disrepute;
  - 7.1.3 do not compare services with other College members;
  - 7.1.4 do not include any endorsements or testimonials;
  - 7.1.5 do not display any affiliation with an organization or association in a manner that falsely implies that organization's sponsorship or certification;
  - 7.1.6 do not claim uniqueness or special advantage unsupported by professional or scientific evidence; and
  - 7.1.7 are in keeping with standards of good taste and discretion.
- 7.2 College members may advertise fees charged for their services provided that advertised fees clearly relate to proposed services and include disclosure of possible limits, uncertainties or circumstances whereby additional fees may be charged. (See also Principle VI: Fees.)
- 7.3 College members' education, training, and experience, as well as areas of competence, professional affiliations and services are described in an honest and accurate manner.<sup>1,1.1,1.2,2</sup>
  - 7.3.1 College members may represent themselves as specialists in certain areas of practice only if they can provide evidence of specialized training, extensive experience or education;
  - 7.3.2 College members do not make false, misleading or exaggerated claims of efficacy regarding past or anticipated achievements with respect to clients, scholarly pursuits or contributions to society.



- 7.3.3 College members correct, whenever possible, false, misleading or inaccurate information and representations made by others concerning College members' qualifications or services.
- 7.4 College members do not solicit prospective clients in ways that are misleading, that disadvantage fellow members or that discredit the professions of social work or social service work.

## FOOTNOTES

1. The following alternatives are acceptable forms for individual vocational designation on business cards, letterhead stationery, forms, business telephone listings, directories, signs and identification of business premises, etc.:
  - a) College members who are social workers identify themselves by using the designation "RSW", or one of the titles "Social Worker" or "Registered Social Worker", following their names. College members who are social service workers identify themselves by using the designation "RSSW", or one of the titles "Social Service Worker" or "Registered Social Service Worker", following their names. College members may add an optional one line description of the College member's area of limited practice or specialty; or
  - b) "RSW", "Social Worker" or "Registered Social Worker", in the case of a social worker, or "RSSW", "Social Service Worker" or "Registered Social Service Worker", in the case of a social service worker, following the highest academic degree or diploma;
    - b.1) where a College member is a member who holds an inactive certificate of registration under the Registration Regulation (Ontario Regulation 383/00), the member must use "inactive" in English or "inactif" in French immediately following "RSW", "Social Worker" or "Registered Social Worker", in the case of a social worker, or "RSSW", "Social Service Worker" or "Registered Social Service Worker", in the case of a social service worker, and the member must not engage in the practice of social work or social service work, as the case may be, in Ontario;
    - b.2) where a College member is a member who holds a retired certificate of registration under the Registration Regulation (Ontario Regulation 383/00), the member must use "retired" in English or "retraité" in French immediately following "RSW", "Social Worker" or "Registered Social Worker", in the case of a social worker, or "RSSW", "Social Service Worker" or "Registered Social Service Worker", in the case of a social service worker, and the member must not engage in the practice of social work or social service work, as the case may be, in Ontario;
    - b.3) a College member who is authorized to perform the controlled act of psychotherapy may use the title "psychotherapist", provided that the member must set out his or her full name, immediately followed by at least one of the following, followed in turn by "psychotherapist":
      - i) Ontario College of Social Workers and Social Service Workers together with RSW, in the case of a social worker, or RSSW, in the case of a social service worker; or
      - ii) social worker or registered social worker; or
      - iii) social service worker or registered social service worker.
  - c) where a College member holds an earned doctorate in social work, as defined in subsection 47.3(2) of the *Social Work and Social Service Work Act, 1998*, the member may use either, but not both, of i) or ii) as follows:
    - i) the degree in addition to the designation or title in either of clauses a) or b); or
    - ii) the title "Doctor" or "Dr.", as a prefix, provided that it is followed by the



member’s full name, and immediately followed by one of (A), (B) or (C), as follows:

- (A) Ontario College of Social Workers and Social Service Workers together with RSW, in the case of a social worker, or RSSW, in the case of a social service worker,
- (B) social worker or registered social worker, or
- (C) social service worker or registered social service worker; or

c.1) where a College member does not hold an earned doctorate in social work, as defined in subsection 47.3(2) of the *Social Work and Social Service Work Act, 1998*, but does hold a doctoral degree, the member may use either, but not both, of i) or ii) as follows:

- i) the degree, in addition to the designation or title in either of clauses a) or b); or
- ii) the title “Doctor” or “Dr.”, as a prefix, in addition to the designation or title in either of clauses a) or b), provided that the member may not use the title “Doctor”, a variation or abbreviation or an equivalent in another language in the course of providing or offering to provide, in Ontario, health care to individuals; or d) where the College member is a consultant or advisor in the public or private sector, the phrase “Consultant in . . .” or “Advisor in . . .”, when contained in professional materials, is used only in connection with such position and as an addition to the designation in either clauses a) or b); and e) where the College member is an employee in the public or private sector, such affiliation with an accurate and appropriate indication of rank, title or nature of function may be displayed on a professional card and used only in connection with such employment in addition to the designation in clauses a) or b).

1.1 A College member who is authorized to perform the controlled act of psychotherapy may use the title “psychotherapist” if the member complies with the conditions set out in section 47.2 of the *Social Work and Social Service Work Act, 1998*.

Members are referred to the College’s “Practice Guidelines for Performing the Controlled Act of Psychotherapy”. These practice guidelines are intended to, among other things, assist members in identifying what factors they should consider in order to determine if they are competent to perform the controlled act of psychotherapy.

1.2 “Earned doctorate” means a doctoral degree in social work that is,

- (a) granted by a post-secondary educational institution authorized in Ontario to grant the degree under an Act of the Assembly, including a person that is authorized to grant the degree pursuant to the consent of the Minister of Training, Colleges and Universities under the *Post-secondary Education Choice and Excellence Act, 2000*,
- (b) granted by a post-secondary educational institution in a Canadian province or territory other than Ontario and that is considered by the College to be equivalent to a doctoral degree described in clause (a), or
- (c) granted by a post-secondary educational institution located in a country other than Canada that is considered by the College to be equivalent to a doctoral degree described in clause (a). (Subsection 47.3(2) of the *Social Work and Social Service Work Act, 1998*).

Members are referred to the College’s “Policy respecting Earned Doctorates in Social Work under subsection 47.3(2) of the *Social Work and Social Service Work Act, 1998*”. This Policy describes the criteria that the College uses to determine whether a member holds an earned doctorate in social work, as defined in subsection 47.3(2) of the *Social Work and Social Service Work Act, 1998*.



2. College members practising the profession of social work or social service work through a business, partnership or professional corporation may use one of the following acceptable alternatives as applicable:
  - a) a list of the names of the partners, with College members designated as in Footnote 1;
  - b) a partnership title containing:
    - i) the surnames or full names of two or more actual partners; or
    - ii) where there are three or more actual partners, the surnames or full names may be used with the term “and Associate” or “and Associates” as appropriate;
  - c) a partnership title as above with an individual listing of the College members' names and acceptable vocational designations (see Footnote 1);
  - d) where an unincorporated business, the business name with an individual listing of the College members' names and acceptable vocational designations (see Footnote 1);
  - e) where a professional corporation, the corporate name of the professional corporation;
  - f) where a professional corporation, the corporate name of the professional corporation with an individual listing of the names of the College members who are shareholders and acceptable vocational designations (see Footnote 1);
  - g) where a professional corporation has a practice name other than its corporate name, the practice name together with the corporate name of the professional corporation; and
  - h) where a professional corporation has a practice name other than its corporate name, the practice name together with the corporate name of the professional corporation and an individual listing of the names of the College members who are shareholders and acceptable vocational designations (see Footnote 1).



## PRINCIPLE VIII: SEXUAL MISCONDUCT

The influence of the professional relationship upon clients is pervasive and may endure long after the relationship has terminated. College members are aware of the potential for conflict of interest and abusive treatment of clients within the professional relationship. Behaviour of a sexual nature by a College member toward a client represents an abuse of power in the professional relationship. College members do not engage in behaviour of a sexual nature with clients.

### Interpretation

- 8.1 College members are solely responsible for ensuring that sexual misconduct does not occur.
- 8.2 College members do not engage in the following actions with clients:
  - 8.2.1 Sexual intercourse or another form of physical sexual relations between the member and the client;<sup>1</sup>
  - 8.2.2 Touching, of a sexual nature, of the client by the member;<sup>2</sup> and
  - 8.2.3 Behaviour or remarks of a sexual nature by the member towards the client, other than behaviour or remarks of a clinical nature appropriate to the service provided.<sup>3</sup>
- 8.3 If a College member develops sexual feelings toward a client that could, in the member's judgement, put the client at risk, the member seeks consultation/supervision and develops an appropriate plan.<sup>4</sup>
- 8.4 If a client initiates behaviour of a sexual nature, the member states clearly that this behaviour is inappropriate by virtue of the professional relationship.
  - 8.4.1 If overtures or provocative sexual behaviour by a client toward a College member become intrusive to the provision of professional services, the College member may choose to terminate the relationship and may offer to assist the client to seek alternate services.
- 8.5 College members do not provide clinical services to individuals with whom they have had a prior relationship of a sexual nature.
- 8.6 Sexual relations between College members and clients at the time of referral, assessment, counselling, psychotherapy (including psychotherapy services and/or the controlled act of psychotherapy), or other professional services are prohibited. In other professional relationships,



- College members do not have sexual relations with any person where those relations, combined with the professional relationship, would create a conflict of interest.<sup>5</sup>
- 8.7 Sexual relations between College members and clients to whom the members have provided psychotherapy and/or counselling services, or with respect to whom the members have performed the controlled act of psychotherapy, are prohibited at any time following termination of the professional relationship.<sup>6,7</sup>
- 8.8 Sexual relations between College members and clients to whom the members have provided social work or social service work services, other than psychotherapy or counselling services and/or the performance of the controlled act of psychotherapy, are prohibited for a period of one (1) year following termination of the professional relationship.<sup>6,7,8</sup>
- 8.9 College members do not engage in sexual activities with clients' relatives or other individuals with whom clients maintain a close personal relationship when there is a risk of exploitation or potential harm to the client or when such activities would compromise the appropriate professional boundaries between the member and the client.

## FOOTNOTES

1. Physical sexual relations whether or not initiated by the client, include, but are not limited to, kissing of a sexual nature, touching of breasts or genitals, genital contact and sexual intercourse.
2. Touching is defined as physical contact of a sexual nature. It includes hugging, holding, patting, stroking, rubbing and any form of contact which is unnecessary to the helping process.
3. Behaviour or remarks of a sexual nature include but are not limited to amorous, romantic, seductive and sexual behaviours or remarks. These may include: expressing amorous and/or romantic feelings, e.g. being "in love"; requests to date; inappropriate gift giving; unnecessarily arranging sessions in off-site locations, e.g. in restaurants or the client's or the member's home, or beyond normal business hours; unnecessary comments about the client's body or clothing; requesting details of sexual history or sexual preferences not pertinent to the service that is being provided; initiation by the College member of conversations regarding the College member's sexual problems, preferences or fantasies; the wearing of sexually suggestive clothing or adornment; displaying pornographic or other offensive material and jokes or remarks that are sexually provocative or sexually demeaning.  
  
Behaviour or remarks of a sexual nature do not include behaviour or remarks of a clinical nature appropriate to the service being provided.
4. In such cases it may be appropriate for the College member to seek alternative services for the client and terminate the relationship as soon as possible, in keeping with the client's interests.
5. See Principle II, Interpretation 2.2.



6. "Psychotherapy Services" are defined as any form of treatment for psycho-social or emotional difficulties, behavioural maladaptations and/or other problems that are assumed to be of an emotional nature, in which a College member establishes a professional relationship with a client for the purposes of promoting positive personal growth and development. The controlled act of psychotherapy, which may fall within or overlap with "psychotherapy services", is defined in the *Regulated Health Professions Act, 1991* (the "RHPA") as "Treating, by means of psychotherapy technique, delivered through a therapeutic relationship, an individual's serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual's judgement, insight, behaviour, communication or social functioning."
7. "Counselling services" are defined as services provided within the context of a professional relationship with the goal of assisting clients in addressing issues in their lives by such activities as helping clients to find solutions and make choices through exploration of options, identification of strengths and needs, locating information and providing resources, and promoting a variety of coping strategies, but do not include psychotherapy services or the controlled act of psychotherapy.
8. Members should note that in addition to Principle VIII, other provisions of the College's Standards of Practice also apply to sexual relations between College members and clients or former clients. For example, even after the expiry of the one-year period referred to in Interpretation 8.8 (regarding sexual relations with former clients to whom the member provided social work or social service work services, other than psychotherapy or counselling services, and/or performance of the controlled act of psychotherapy), sexual relations between a member and a former client will give rise to a dual relationship and create the potential for a conflict of interest (see: Principle II, Interpretations 2.2 and 2.2.1 to 2.2.4). Prior to engaging in sexual relations with a former client, a member must evaluate not only whether such relations are permitted under Principle VIII and Interpretation 8.8, but also whether they give rise to a dual relationship and/or conflict of interest, or may contravene any other Standard of Practice of the College.



# GLOSSARY

**Advocacy** 1. The act of directly representing or defending others. 2. Championing the rights of individuals, groups or communities through direct intervention or through empowerment. It is a basic obligation of the professions and its members.\*\*†

**Assessment** The process of determining the nature, cause, progression and prognosis of a problem and the personalities and situations involved therein; the function of acquiring an understanding of a problem, what causes it, and what can be changed to minimize or resolve it.\*\*† The identification of strengths and capacities and redefinition of problems as needs. \*\*\*\*\*

**Barter** When a client pays for a service by providing goods and/or services to a member instead of paying them money.\*\*\*†

**Body of knowledge** Each of the phrases “Body of professional social work knowledge” and “body of professional social service work knowledge” relates to both theoretical and practical understanding. A body of knowledge can be attained through education, clinical experience, consultation and supervision, professional development and a review of relevant research and literature. Professional social work knowledge and professional social service work knowledge draw upon the knowledge base of other professions including sociology, psychology, anthropology, medicine, law and economics as well as their own respective distinct bodies of knowledge.

**Client** “Client”, in relation to a member of the College, refers to any person or body that is the recipient of, or has contracted to receive, social work or social service work services from the member, including an individual, couple, group, family, organization, government agency or community that receives (or contracts to receive) direct or indirect social work or social service work services, (as described in the scopes of practice). In social work or

social service work research, the client may include a participant in that research. In social work or social service work education, the client may include a student or supervisee. Clients of members employed by an organization are considered clients of both the member and the organization.\*\*†

**Competence** 1. For social workers and social service workers it means: The ability to fulfill the requirements of professional practice. Competence includes possession of all relevant educational and experiential requirements, and the ability to carry out professional duties and achieve goals while adhering to the values and code of ethics of the professions. 2. Competence for social workers and social service workers also includes, but is not limited to, having the capacity to understand and act reasonably.\*\* †

**Complaints Committee** A statutory committee of the College, the mandate of which is to consider and investigate written complaints regarding the conduct or actions of members of the College and to determine the appropriate action to be taken in respect of such complaints, in accordance with the *Social Work and Social Service Work Act*, including but not limited to issuing a caution or referral of the matter to the Discipline Committee or Fitness to Practise Committee †

**Confidentiality** A principle of ethics according to which the member may not disclose information about a client without the client’s consent. This information includes, but is not limited to, the identity of the client, the content of overt verbalizations or other communications with the client, professional opinions about the client, and material from records relating to or supplied by the client.\*\*

**Conflict of Interest** is defined as a situation in which a member has a personal, financial or other professional interest or obligation which gives rise to a reasonable apprehension that the interest or



obligation may influence the member in the exercise of his or her professional responsibilities. Actual influence is not required in order for a conflict of interest situation to exist. It is sufficient if there is a reasonable apprehension that there may be such influence.

One of the hallmarks of a conflict of interest situation is that a reasonable person, informed of all of the circumstances, would have a reasonable apprehension (in the sense of reasonable expectation or concern) that the interest might influence the member. The influence need not be actual but may simply be perceived. However, a mere possibility or suspicion of influence is not sufficient to give rise to a conflict of interest. The interest must be significant enough to give rise to a "reasonable apprehension" that the personal, financial or other professional interest may influence the member in the performance of his or her professional responsibilities.

**Counselling services** Counselling services are defined as services provided within the context of a professional relationship with the goal of assisting clients in addressing issues in their lives by such activities as helping clients to find solutions and make choices through exploration of options, identification of strengths and needs, locating information and providing resources, and promoting a variety of coping strategies, but do not include psychotherapy services or the controlled act of psychotherapy.

**Diagnosis** A social work diagnosis defines that series of judgments made by a social worker based on social work knowledge and skills in regard to individuals, couples, families and groups. These judgements:

- a) serve as the basis of actions to be taken or not taken in a case for which the social worker has assumed professional responsibility and
- b) are based on the Social Work Code of Ethics and Standards of Practice.

Such judgments and the procedures and actions leading from them are matters for which the social worker expects to be accountable.

**Disbursements** Money paid out by or on behalf of a client for charges or expenses (other than the member's professional fees) relating to professional services provided by a member to the client. Disbursements may include, but are not limited to, charges for facsimile transmissions, photocopies, long distance telephone calls, etc.\*

**Documentation by exception** Recording only those behaviours which do not occur routinely. The member records situations or behaviours that are out of keeping with the client's usual behaviour or circumstance.\*\*\*

**Dual relationship** Dual relationship is defined as a situation in which a College member, in addition to his/her professional relationship, has one or more other relationships with the client, regardless of whether this occurs prior to, during, or following the provision of professional services. A dual relationship does not necessarily constitute a conflict of interest; however, where dual relationships exist, there is a strong potential for conflict of interest and there may be an actual or perceived conflict of interest. Relationships beyond the professional one include, but are not limited to, those in which the College member receives a service from the client, the College member has a personal, familial or business relationship with the client, or the College member provides therapy to students, employees or supervisees.

**Dysfunction** A disorder or condition, either physical or intellectual, which could impair or call into question the ability of a social worker or social service worker to provide objective professional assessments and interventions in the course of their practice.

**Efficacy** The capacity to help the client achieve, in a reasonable time period, the goals of a given intervention.\*\*†

**Evidence** Refers to information tending to establish facts. For College members, evidence can include, but is not limited to: direct observation; information collected in clinical sessions; collateral information; information from documents and information gathered from the use of clinical tools



(e.g. diagnostic assessment measures, rating scales).

**Fitness to Practise Committee** A statutory committee of the College, the mandate of which is to hold hearings which are generally closed to the public and to determine allegations of incapacity referred to it by the Complaints Committee, the Executive Committee or Council, in accordance with the legislation; to hold hearings to determine applications for reinstatement or to vary terms, conditions or limitations imposed as a result of a Fitness to Practise hearing.

**Formal notice** A written statement concerning a fact that is communicated to the affected person, giving that person an awareness of the fact.\*

**Genogram** A diagram used to depict family relationships extended over three generations. The diagram uses circles to represent women and squares for men, with horizontal lines indicating marriages. Vertical lines are drawn from the marriage lines to other circles and squares to depict the children. The diagram may contain other symbols or written explanations to indicate critical events, such as death, divorce, and remarriage, and to reveal recurrent patterns of behaviour.\*\*†

**Intervention** 1. Coming between groups of people, events, planning activities, or an individual's internal conflicts. 2. In social work, the term is analogous to the physician's term "treatment". Many social workers prefer using "intervention" because it includes "treatment" and also encompasses the other activities social work members use to solve or prevent problems or achieve goals for social betterment. These could include psychotherapy (including psychotherapy services and/or the controlled act of psychotherapy), advocacy, mediation, social planning, community organization, finding and developing resources.\*\*†

**Paraprofessional** An individual with specialized knowledge and technical training who works closely with and is supervised by a professional.\*\* †

**Physical sexual relations** Physical sexual relations whether or not initiated by the client, include, but are not limited to, kissing of a sexual

nature, touching of breasts or genitals, genital contact and sexual intercourse.

**Professional corporation** In relation to the practice of social work or social service work by one or more College members, "professional corporation" means a body corporate with share capital incorporated or continued under the *Business Corporations Act*, RSO 1990, c. B.16 for the purpose of practising social work or social service work, that holds a valid certificate of authorization issued under the *Social Work and Social Service Work Act*, S.O. 1998, c. 31.

**Psychosocial** Of or involving the influence of social factors or human interactive behaviour, it recognizes the complex interdependence of individual psychology, cultural and social/interpersonal context.

**Psychotherapy services** Psychotherapy services are defined as any form of treatment for psycho-social or emotional difficulties, behavioural maladaptations and/or other problems that are assumed to be of an emotional nature, in which a College member establishes a professional relationship with a client for the purposes of promoting positive personal growth and development.

**Psychotherapy, The Controlled Act** The controlled act of psychotherapy is defined in the *Regulated Health Professions Act, 1991* (the "RHPA") as "Treating by means of psychotherapy technique, delivered through a therapeutic relationship, an individual's serious disorder of thought, cognition, mood, emotional regulation, perception or memory that may seriously impair the individual's judgement, insight, behaviour, communication or social functioning." It should be noted that the definition of the controlled act of psychotherapy is different from the definition of psychotherapy services. While it is possible that not all psychotherapy would be found to fall under the definition of the controlled act, this cannot yet be determined with certainty, given that there is currently no guidance on that point from the courts or College Discipline Committees.

**RSSW** Registered Social Service Worker. A member of the College who holds a certificate of



registration for social service work.

**RSW** Registered Social Worker. A member of the College who holds a certificate of registration for social work.

**Self-determination** An ethical principle that recognizes the rights and needs of clients to be free to make their own choices and decisions. Inherent in the principle is the requirement for the member to help the client know what the resources and choices are and what the potential consequences of selecting any one of them may be. \*\*†

**Sociogram** A diagram or graphic presentation used by group workers and other professionals to display how members of the group feel about one another and how they tend to align themselves with some and against other members of the group or organization.

**Subpoena** A legal document requiring a person to attend before a court or a tribunal, or at an out-of-court examination, to be examined as a witness in a legal proceeding.\*

**Touching** Touching, as included in Principle VIII: Sexual Misconduct, is defined as physical contact of a

sexual nature. It includes hugging, holding, patting, stroking, rubbing and any form of contact which is unnecessary to the helping process.

**Sources**

\* Black’s Law Dictionary, Fifth Edition, Henry Campbell Black et al, 1979

\*\* The Social Work Dictionary, 4th Edition, Robert L. Barker, 1999

\*\*\* Client Rights in Psychotherapy and Counselling, A Handbook of Client Rights and Therapist Responsibility, Susan Beamish, Michelle Melanson and Marilyn Oladimeji, 1998

\*\*\*\* Ontario Association of Social Workers, Guidelines for Social Work Record-Keeping, 1999

\*\*\*\*\* The Strengths Perspective in Social Work, Dennis Saleebey, 1992

† Definition has been adapted by the Standards of Practice Committee



# STANDARD OF PRACTICE FOR SOCIAL WORKERS COMMUNICATING POST EVALUATION, A FINDING OF INCAPACITY WITH RESPECT TO ADMISSION TO CARE FACILITIES OR PERSONAL ASSISTANCE SERVICES

## Preamble

The following standard of practice for communicating a finding of incapacity with respect to admission to a care facility or personal assistance service has been prepared in the context of the development of standards of professional practice and conduct for the Ontario College of Social Workers and Social Service Workers. This standard of practice is intended to be specific to the social work profession in the province of Ontario.

Registered social workers who evaluate a person and communicate a finding of incapacity with respect to admission to a care facility or personal assistance service are governed by the standards of practice of the social work profession prescribed by the College.

It is recognized that there are variations in the approaches of individual social workers to the evaluation of client capacity to consent to admission to a care facility or a personal assistance service. Also, social workers will vary their methods in response to the demands of each particular situation. Members of the College who hold a certificate of registration for social work will adhere to this standard of practice of the social work profession prescribed by the College.

## Communication of a finding of incapacity

- 1.01 The College member who makes the determination of incapacity will:
- (a) Inform the client that a substitute decision-maker will be asked to assist the client and to make final decisions on his or her behalf. The client's right to receive this information should be respected whether or not it is believed he or she is capable of comprehending it. In informing the client regarding the substitute decision-maker, the member will exercise professional judgment and have regard to the particular needs of the client.
  - (b) If the client disagrees with the need for a substitute decision-maker or disagrees with the involvement of the present substitute, advise the client of his or her options. The member will assist the client if he or she expresses the wish to exercise the options. These options



include applying to the Consent and Capacity Board for review of the finding of incapacity and/or finding another substitute of the same or more senior rank.

- (c) Help the incapable client participate as far as possible with the substitute decision-maker in planning for himself or herself.

1.02 The member who conducted the evaluation must complete documentation of the finding of incapacity.

MAY 2000

The following excerpts from the Health Care Consent Act, 1996 are current to August 28, 2012. The following regulation (O.Reg. 104/96) is current to August 28, 2012. They are provided for the purpose of background information for members of the Ontario College of Social Workers and Social Service Workers. For current and comprehensive information, please refer to the official statute and regulations for the authoritative text.

### HEALTH CARE CONSENT ACT, 1996

Section 2. (1)

"In this Act, ....

"Board" means the Consent and Capacity Board;"

"care facility" means,

- (a) a long-term care home as defined in the Long-Term Care Homes Act, 2007, or
- (b) a facility prescribed by the regulations as a care facility;"

"evaluator" means, in the circumstances prescribed by the regulations,

- (a) a member of the College of Audiologists and Speech-Language Pathologists of Ontario,
- (b) a member of the College of Dietitians of Ontario,
- (c) a member of the College of Nurses of Ontario,
- (d) a member of the College of Occupational Therapists of Ontario,
- (e) a member of the College of Physicians and Surgeons of Ontario,
- (f) a member of the College of Physiotherapists of Ontario,
- (g) a member of the College of Psychologists of Ontario, or
- (h) a member of a category of persons prescribed by the regulations as evaluators;"

"incapable" means mentally incapable, and "incapacity" has a corresponding meaning;"

"personal assistance service" means assistance with or supervision of hygiene, washing, dressing, grooming, eating, drinking, elimination, ambulation, positioning or any other routine activity of living, and



includes a group of personal assistance services or a plan setting out personal assistance services to be provided to a person, but does not include anything prescribed by the regulations as not constituting a personal assistance service;"

"recipient" means a person who is to be provided with one or more personal assistance services,

- (a) in a long-term care home as defined in the Long-Term Care Homes Act, 2007,
- (b) in a place prescribed by the regulations in the circumstances prescribed by the regulations,
- (c) under a program prescribed by the regulations in the circumstances prescribed by the regulations, or
- (d) by a provider prescribed by the regulations in the circumstances prescribed by the regulations;"

#### Section 4. (1)

"A person is capable with respect to a treatment, admission to a care facility or a personal assistance service if the person is able to understand the information that is relevant to making a decision about the treatment, admission or personal assistance service, as the case may be, and able to appreciate the reasonably foreseeable consequences of a decision or lack of decision."

#### Section 4. (2)

"A person is presumed to be capable with respect to treatment, admission to a care facility and personal assistance services."

#### Section 4. (3)

"A person is entitled to rely on the presumption of capacity with respect to another person unless he or she has reasonable grounds to believe that the other person is incapable with respect to the treatment, the admission or the personal assistance service, as the case may be."

#### Section 40.(1)

"If a person's consent to his or her admission to a care facility is required by law and the person is found by an evaluator to be incapable with respect to the admission, consent may be given or refused on the person's behalf by his or her substitute decision-maker in accordance with this Act."

#### Section 43. (1)

"Before giving or refusing consent on an incapable person's behalf to his or her admission to a care facility, a substitute decision-maker is entitled to receive all the information required in order to make the decision."

#### Section 43. (2)

"Subsection (1) prevails despite anything to the contrary in the Personal Health Information Protection Act, 2004."

#### Section 50. (1)

"A person may apply to the Board for a review of an evaluator's finding that he or she is incapable with respect to his or her admission to a care facility."



Section 57.(1)

“If a recipient is found by an evaluator to be incapable with respect to a personal assistance service, a decision concerning the service may be made on the recipient’s behalf by his or her substitute decision-maker in accordance with this Act.”

Section 60. (1)

“Before making a decision on an incapable recipient’s behalf concerning a personal assistance service, a substitute decision-maker is entitled to receive all the information required in order to make the decision.”

Section 60. (2)

“Subsection (1) prevails despite anything to the contrary in the Personal Health Information Protection Act, 2004.”

Section 65.(1)

“A recipient may apply to the Board for a review of an evaluator’s finding that he or she is incapable with respect to a personal assistance service.”

## **ONTARIO REGULATION 104/96**

made under the

Health Care Consent Act, 1996

Amended to O. Reg. 517/10

### **EVALUATORS**

1. (1) Social workers are evaluators for the purposes of subsection 2 (1) of the Act. O. Reg. 517/10, s. 1.

(2) In this section,

“social worker” means a member of the Ontario College of Social Workers and Social Service Workers who holds a certificate of registration for social work. O. Reg. 517/10, s. 1.

2. Social workers and persons described in clauses (a) to (g) of the definition of “evaluator” in subsection 2 (1) of the Act may act as evaluators in the following circumstances:

1. For the purpose of determining whether a person is capable with respect to his or her admission to a care facility.
2. For the purpose of determining whether a person is capable with respect to a personal assistance service. O. Reg. 517/10, s. 1.