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# PRACTICE NOTES

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## NAVIGATING CONFLICTS OF INTEREST

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

Conflicts of interest can arise in any profession but given the nature of service provided by social workers and social service workers, it is critical that any conflicts of interest are dealt with swiftly and ethically. By doing so, members are keeping their clients' best

interests at the forefront and upholding the College's Standards of Practice.

The College's Professional Practice Department regularly receives inquiries from members who wonder whether they are engaged in a conflict of interest with an existing or prospective client. As each member's situation is unique and nuanced, College staff are not always able to provide a definitive answer as to whether a conflict of interest exists. Instead, the College provides direction to its members in the form of resources, including these Practice Notes, which they can refer to when faced with potential conflicts of interest.

## IDENTIFYING A CONFLICT OF INTEREST

Social work scholar Frederic Reamer wrote that "conflicts of interest occur when a social worker's [or social service worker's] services to, or relationship with a client is compromised, or might be

compromised, because of decisions in relation to another client, a colleague, herself or himself, or some other third party.”<sup>1</sup>

Further to this, The Standards of Practice define a conflict of interest as the following:

“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 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.<sup>2</sup>

The definition in the Standards of Practice requires that members reflect broadly upon their practice and consider the perspectives of others. Members must also critically examine the context of their situation and evaluate whether any personal, financial or other professional interests or obligations may be affecting their judgment.

If a member answers “yes” to any of the following reflective questions, they may be facing a conflict of interest:

- Do I have a personal, financial or professional interest that could be influencing my professional judgment?
- Could someone reasonably perceive that I have a personal, financial or professional interest that may influence how I carry out my professional obligations?
- Would someone who is fully aware of this situation have a reasonable apprehension that I may put my own interests ahead of my client’s?

## THE DECISION-MAKING PROCESS

It can be challenging for members to remain objective when engaging in critical self-reflection; therefore, seeking the advice of a colleague, supervisor, manager or lawyer is strongly recommended when examining potential conflicts of interest.

It is also extremely important for members to document the evaluation process they used to determine whether or not a conflict of interest exists. Full documentation of all the efforts, evaluation and professional consultation that helped the member reach their decision should be kept as a formal record, in the event that they are required to review or explain their decision. This documentation should include the member’s responses to the reflective questions above, and reference to the College resources that they have considered.

When members are faced with challenging practice scenarios or ethical dilemmas, they are reminded to consult the Standards of Practice, which state that:

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. College members achieve this by:

<sup>1</sup> Frederic Reamer, *The Social Work Ethics Casebook: Cases and Commentary* (Washington, DC: NASW Press, 2009).

<sup>2</sup> Ontario College of Social Workers and Social Service Workers (OCSWSSW), *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle II: Competence and Integrity, footnote 6.

- 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<sup>3</sup> 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; 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.<sup>4</sup>

The following scenarios provide some examples of potential conflicts of interest and relevant reflective questions. These questions are not intended to be exhaustive, but rather to provide a framework for members to use when faced with similar dilemmas.

### SCENARIO 1 – STARTING A PRIVATE PRACTICE: SHOULD YOUR CLIENTS GO WITH YOU?

*For years, a member worked with several clients at a community agency that provided a range of support services. The member decided to leave the agency to start their own private practice; upon terminating with clients, the member was asked about why they were leaving the agency. Once they learned of the member's reason for departure, some clients asked if they could continue to work with the member at their private practice. The member thought that this would enhance continuity of care for their clients and decided to contact the Professional Practice Department to discuss further.*

The member was directed to the Standards of Practice which state that "College members do not solicit their employers' clients for private practice,"<sup>5</sup> but that "College members may accept referrals from their employers."<sup>6</sup> The member was unaware of whether they were permitted by their employer to accept agency clients into their private practice and had not yet discussed the situation with their manager. The member was encouraged to review their workplace policies and employment contract, and to discuss the matter with their supervisor or manager. As a result of the conversation with Professional Practice staff, the member realized that they may have been in breach of their workplace policies and/or contract, and/or in a conflict of interest had they accepted agency clients into their private practice.

During other practice consultations, members have stated that it would be unethical not to accept a client at their private practice because of the progress they had made with them; they have suggested that it was in the client's best interest to continue working together. Members should reflect upon whether their professional judgment is being impacted by their own self-interest. A scenario from the previous [Practice Notes: Private Practice – The Cost of Doing Business \("Avoiding Conflicts of Interest," page 2\)](#), directs members to consider whether accepting agency clients at their private practice is to support the needs of the client, or to fulfill their own personal, financial or professional interests.

Members have also suggested that if the client was the one to initiate the conversation about following a member to their private practice, this would not be a conflict of interest. Members are reminded that they

<sup>3</sup> "Dual Relationships" are defined in Principle II: Competence and Integrity, footnote 7 of the OCSWSSW Standards of Practice and discussed in [Practice Notes: Dual Relationships: Ensuring Clients Best Interests Are Paramount](#) and [Practice Notes: Dual Relationships: Approach with Caution](#).

<sup>4</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle II: Competence and Integrity, Interpretation 2.2.1.

<sup>5</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle III: Responsibility to Clients, Interpretation 3.3.

<sup>6</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle III: Responsibility to Clients, footnote 2.

must act ethically, regardless of a client’s expressed interest in working together, and the timing of this conversation. The Standards of Practice state that “College members distinguish their needs and interests from those of their clients to ensure that, within professional relationships, clients’ needs and interests remain paramount.”<sup>7</sup>

In this current scenario, the Professional Practice Department suggested that the member review the reflective questions below and the [ETHICS-A: Ethical Decision-Making Tool](#) to assist them in their decision-making process.

The member was asked to reflect on the following questions:

- Am I the only private practitioner who can help this client?
- Would this client benefit from working with another professional who has a different perspective?
- Does the client feel obligated to follow me to my private practice?
- Is the client trying to please me or are they otherwise demonstrating a strong attachment to me?
- Am I demonstrating a strong attachment toward my client?
- Am I considering taking on this client to boost my private practice roster of clients and/or to assist me financially?
- How will my colleagues or manager perceive me accepting agency clients into my private practice?

The member in this scenario initially thought that their inquiry was straightforward; they were surprised by the myriad of factors that they should

consider when facing a potential conflict of interest. The member stated that they would review their employment contract and discuss the matter with their manager. They also agreed to reflect further upon their motivation for taking clients from the agency to their private practice, and to discuss the reflective questions with trusted members of their professional network.

## SCENARIO 2 – WHEN CONFLICTS ARISE AT A BOARD MEETING

*A member, who sits on a board of directors, put forth a policy decision for the board’s consideration. Approval of the policy could significantly improve the member’s chances of receiving grant money for their research. When it came time to discuss the policy, the member (who was unfamiliar with rules of order and meeting protocols) did not recuse themselves from the conversation. The meeting quickly became tense, and several directors refused to discuss the matter any further while the member was present. The policy decision was postponed until a decision could be made about an appropriate process. Following the meeting, the member contacted the Professional Practice Department to discuss the situation.*

Conflicts of interest can arise for members in many situations — in volunteer positions or paid employment, and in direct or indirect practice. During the practice consultation, the member in this scenario was reminded that the Standards of Practice apply to “the breadth and scope of social work practice and social service work practice,”<sup>8</sup> which includes clinical and non-clinical practice.

The member was asked if the board had any policies, training or other information related to conflicts of interest. The member disclosed that they were absent from some board training, and while conflicts of interest had been discussed at past board meetings, they were not clear on what the procedures were once a potential conflict had been raised by a board member. Professional Practice staff noted that the Standards of Practice require College members to “maintain current knowledge of policies, legislation,

<sup>7</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle I: Relationship with Clients, Interpretation 1.6.

<sup>8</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Explanatory Note, page iv.

programs and issues related to the community, its institutions and services in their areas of practice.”<sup>9</sup> They encouraged the member to speak to the board chair to get clarification on meeting processes.

Professional Practice staff also reviewed the definition of a conflict of interest with the member and asked them to reflect on whether it could be perceived by the other board members that they were acting in their own self-interest by participating in the policy discussion. The member recognized that some board members may have thought that the member was acting in their own personal, financial or professional self-interest, but genuinely believed in the new policy and wanted to participate in the conversation. The member was reminded that, “[a]s 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.”<sup>10</sup>

The member was asked to reflect on the following questions:

- Could this policy decision directly impact me?
- Do I have a personal, professional or financial interest that could be influencing my decision making?
- Am I making excuses or rationalizing my decision not to recuse myself from the discussion?
- Am I overinvested in this process?
- Do others perceive that I am in a conflict of interest?

The member agreed that they felt personally invested in the proposed policy decision and that this could be impacting their objectivity. They decided to take a step back from the process to reflect further and,

when they were ready, to discuss the issue with the board chair.

## SCENARIO 3 & 4 – PROVIDING SERVICES TO FAMILY MEMBERS OF CLIENTS OR COLLEAGUES

*The responses to the following two scenarios have been grouped together because the reflective questions and processes that members might use when considering them are similar.*

*Scenario 3 – A member belongs to and works with an equity-deserving population. One of the member’s clients asked if the member could also work with their sibling. The member contacted the Professional Practice Department to discuss whether this was a conflict of interest.*

*Scenario 4 – A member who lives and works in rural Ontario was asked by a colleague to provide service to the colleague’s spouse. The member was uncertain about whether the situation presented a conflict of interest and called the Professional Practice Department for a practice consultation.*

In both scenarios, the members were advised to reflect on what their motivations were for taking on the new clients, as “[C]ollege members are aware of their values, attitudes and needs and how these impact on their professional relationships with clients.”<sup>11</sup> Members should be aware that they could be influenced by their personal desire to assist individuals from their own communities, and while this may be altruistic and understandable, it may be a sign that they should pause and reflect on the situation before making a decision. The members were also advised to review [Practice Notes: Boundary Violations \(Principle II, page 2\)](#) and [Practice Notes: Dual Relationships — Approach with Caution \(Scenario #1, page 1\)](#), which explore scenarios about members who considered working with a client’s sibling and a colleague’s spouse, respectively.

<sup>9</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle II: Competence and Integrity, Interpretation 2.1.3.

<sup>10</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle II: Competence and Integrity, Interpretation 2.1.5.

<sup>11</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle I: Relationship with Clients, Interpretation 1.5.

The Professional Practice Department suggests to members facing such scenarios to consider the following question: “are you the only practitioner who can serve this client?” If a member is practising in a well-populated area, there are often other service providers to whom the client can be referred. While it is occasionally the case that a member is the only professional who is able to provide service (perhaps due to geographic or other constraints), members are advised to consult widely within their network, to document thoroughly and to communicate their plan to all applicable parties in order to avoid any actual or perceived conflicts of interest.

The members in the scenarios above were asked to reflect on the following questions relating to the prospective client (referred to in the bullet points below as the “client”):

- Am I the only practitioner who can serve this client?
- Am I already familiar, because of my work with their sibling/spouse, with details about this client and might this influence my objectivity and/or my ability to effectively carry out my professional responsibilities?
- Is it possible that I already have information about this client that they may not have been willing to share with me?
- Is there a risk that I could unintentionally share information with the client and their sibling/spouse, thereby breaching client confidentiality?
- How will I manage the situation if the client tells me something that impacts my professional relationship or obligations to the sibling/spouse?
- What length of time has passed since I last worked with the sibling/spouse? Does this reduce any of the potential risks associated with working with the client?

The issues identified above demonstrate that working with the family member of a client or colleague can lead to actual or perceived conflicts of interest. While the arrangement may seem beneficial or convenient to both parties at first, it may present potential risks and may not be in the best interests of the new client. Additionally, the member may be (or perceived to be) motivated by self-interest if they decide to work with this individual. Members in these scenarios were encouraged to discuss the situation with their colleagues, manager or supervisor, and to consider obtaining legal consultation to help them determine the most prudent and ethical course of action.

## SCENARIO 5 – WHEN A CLIENT BECOMES YOUR COLLEAGUE

*A member consulted the Professional Practice Department to ask if a conflict of interest was created when a client was hired at the member’s agency — meaning the client was now also the member’s colleague. The member works for a social service agency that supports individuals with substance use issues, and the client was hired as a peer support worker. The member indicated that they had been asked to co-facilitate a group with their client and they were concerned about the potential conflict of interest and boundary issues that this situation could present.*

This situation is different from the previous scenarios because it was initiated by the member’s workplace; however, the member must still consider how their professional obligations to their client (and now colleague) will be influenced by their personal and professional interests and/or biases. The member is justified in their concerns about this new work arrangement because College members are required to “establish and maintain clear and appropriate boundaries in professional relationships for the protection of clients.”<sup>12</sup> Professional Practice staff recommended to the member that they review the [Practice Notes: Dual Relationships — Approach with Caution \(Scenario #2, page 2 and Scenario #4, page 3\)](#), which explores two scenarios in which a client becomes a member’s colleague and supervisee. In

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<sup>12</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle II: Competence and Integrity, Interpretation 2.2.

both scenarios, the member must navigate how to maintain professional boundaries.

The member in the current scenario also expressed concern over the client becoming more familiar with personal aspects of the member's life (as is common amongst colleagues) and felt that this familiarity may lead to a crossing of boundaries. Additionally, the member wondered how they should approach a situation in which information disclosed by the client within the therapeutic relationship with the member suggested that the client lacked the ability to provide safe and effective services as a peer support worker. The member questioned if they would be required to disclose the information to their manager or to human resources, and they were reminded that "[i]f 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>13,14</sup>

The member realized that it was a conflict of interest to have both a therapeutic and collegial relationship with their client and understood that "College members do not engage in professional relationships that constitute a conflict of interest."<sup>15</sup> The member was struggling with how they should proceed, given that their manager did not share their viewpoint on the situation. Professional Practice staff encouraged the member to consider the following reflective questions, to document their responses and to share them with their manager.

- Am I the only practitioner who can serve this client?

- Is there another colleague who could co-facilitate the group with the peer support worker (client)?
- Could the peer support worker (client) be assigned to another group?
- How will I maintain appropriate personal boundaries in this situation?
- What direction do the College's Standards of Practice provide on conflicts of interest?
- How can I articulate to my organization that my primary professional responsibility is to my client and the College?
- What is the best way to communicate the conflict of interest to the peer support worker (client)?
- Could the peer support worker (client) be referred to another agency for service?

Following their call with the Professional Practice Department, the member decided to speak to the peer support worker (client) about the conflict of interest and to obtain their consent to discuss the situation with their manager. With client consent, the member would be in a position to meet with their manager to discuss the reflective questions above, document the results of the conversation and establish a plan as to how to move forward. This could include requesting a joint meeting with their manager and the peer support worker (client) to clearly explain the conflict of interest and to discuss how professional boundaries will be maintained, or to discuss with the peer support worker (client) the plan to refer them to another agency for service.

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<sup>13</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle II: Competence and Integrity, Interpretation 2.2.10.

<sup>14</sup> 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.

<sup>15</sup> OCSWSSW, *The Code of Ethics and Standards of Practice Handbook, Second Edition, 2008*, Principle II: Competence and Integrity, Interpretation 2.2.1.

## CONCLUSION

Conflicts of interest are often nuanced and complex. It can be very challenging for members to identify when self-interest is influencing the fulfillment of their professional responsibilities. Members must continually employ a process of self-reflection and consult with their professional network to

maintain objectivity when considering these issues. Conflicts of interest, whether actual or perceived, present potential risks to clients. This is one of the many reasons that College members must remain committed to professional and ethical practice.