

ETHICS AND LAW IN SOCIAL WORK  
PRACTICE

Christine M. Heer, Esq.  
MSW, LCSW, DVS

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<http://www.cheerconsultation.com>

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Helpful Information and Resources

At the Tip of Your Fingers

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Distinctions Between Ethics and Law

- Ethics – basis of moral and professional decision making.
- Law – creates rights, obligations, and remedies.

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Four Scenarios

- What is ethical may be legal
- What is unethical may be legal
- What is ethical may be illegal
- What is unethical may be illegal

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Licensure Violations

- Complaints made to NJ Board of Social Work Examiners.
- Part of the Department of Law and Public Safety
- Represented by NJ Attorney General's Office
- Sanctions include Private, Public, License Suspension, License Denial, License revocation.
- Office of Administrative Law

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## Malpractice Lawsuits

- Complaints in the Superior Court Civil Part
- Legal Basis/Cause of Action
  - Tort Law
  - Breach of Privacy
  - Negligent or intentional Infliction of Emotional Distress

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## Criminal Complaints

- Insurance Fraud.
- Sexual Relations with a Patient/Client
- Assault.
- Theft.

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## Ethics Violations

- Committee on Professional Review.
- State and National Oversight.
- Quasi Formal Procedure.
- Mediation or Hearing.
- Goal is remediation.
- NASW membership, rights and privileges.

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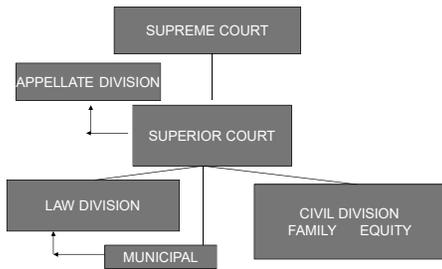
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## Over View of The NJ Legal System



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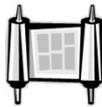
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## SOURCES OF LAW

- U.S. CONSTITUTION
  - FEDERAL CODE
- NEW JERSEY CONSTITUTION
- STATUTES AND ORDINANCES.
- RULES
- ADMINISTRATIVE CODE
- CASE LAW AND ALJ OPINIONS



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## Statistics

- 203 (0.1%) malpractice reports were made against medical social workers in the US 1990-2003 (2003 Annual Report, National Practitioner Data Bank, US DHHS)
- Social workers had an average of 1.12 malpractice reports made against each of them in the US 1990-2003 (2003 Annual Report, National Practitioner Data Bank, US DHHS)

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Kimberly Strom-Gottfreid: UNC Chapel Hill

2002

- Boundary violations
- Practice Methods
- Competence
- Record Keeping
- Honesty
- Confidentiality
- Consent
- Conflicts between colleagues
- Billing
- Conflict of Interest

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## PROFESSIONAL RESPONSIBILITY

- **Duty**, Breach, Causation and Damages
- Reasonable Person Standard
  - Professional Codes, Standards for Practice
  - Special Relationship
- Duty to:
  - Exercise ordinary care      -Competence
  - Warn                                      -Protect
  - Hold Confidential                      -Treat

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## Confidentiality and Privilege

- Distinctions:
  - Confidentiality refers to information which is not intended or authorized to be disclosed to a third party.
  - Privilege refers to an evidence rule that a person cannot be compelled to present evidence.



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## NASW on Confidentiality

- National Association of Social Workers Code of Ethics:
  - "Social workers should protect the confidentiality of all information obtained in the course of professional service, except for compelling professional reasons . . .
  - does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other identifiable person or
  - when laws regulations require disclosure without a client's consent. In all instances, social workers should disclose the least amount of confidential information necessary to achieve the desired purpose . . ."

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## Revisions

### Social Workers Should . . .

- **1.07 Privacy and Confidentiality**
- (m) . . . take reasonable steps to protect the confidentiality of electronic communications, including information provided to clients or third parties. Social workers should use applicable safeguards (such as encryption, firewalls, and passwords) when using electronic communications such as e-mail, online posts, online chat sessions, mobile communication, and text messages
- (n) . . . develop and disclose policies and procedures for notifying clients of any breach of confidential information in a timely manner(o) In the event of unauthorized access to client records or information, including any unauthorized access to the social worker's electronic communication or storage systems, social workers should inform clients of such disclosures, consistent with applicable laws and professional standards.
- (o) In the event of unauthorized access to client records or information, including any unauthorized access to the social worker's electronic communication or storage systems, social workers should inform clients of such disclosures, consistent with applicable laws and professional standards.

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## Social Workers Should . . .

- (p) . . . develop and inform clients about their policies, consistent with prevailing social work ethical standards, on the use of electronic technology, including Internet-based search engines, to gather information about clients.
- (q) Social workers should avoid searching or gathering client information electronically unless there are compelling professional reasons, and when appropriate, with the client's informed consent.
- (r) . . . avoid posting any identifying or confidential information about clients on professional websites or other forms of social media

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## Revisions

### Social Workers Should . . .

- (s) . . . transfer or dispose of clients' records in a manner that protects clients' confidentiality and is consistent with applicable laws governing records and social work licensure.
- (t) . . . take reasonable precautions to protect client confidentiality in the event of the social worker's termination of practice, incapacitation, or death.
- (u) . . . not disclose identifying information when discussing clients for teaching or training purposes unless the client has consented to disclosure of confidential information.
- (v) . . . not disclose identifying information when discussing clients with consultants unless the client has consented to disclosure of confidential information or there is a compelling need for such disclosure.
- (w) . . . protect the confidentiality of deceased clients consistent with the preceding standards.

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## NJ Licensure on Confidentiality

- 13:44G 12-3 "A social worker . . . shall not be required to disclose any confidential information that the social worker may have acquired from a client from a client or patient while performing social work services for the client or patient unless:
  - Disclosure is required by other State law;
  - Failure to disclose the information presents a clear and present danger to the health and safety of an individual.

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## NJ Licensure on Confidentiality

- The social worker is a party defendant to a civil, criminal or disciplinary action arising from the social work services provided, in which case a waiver of the privilege accorded by this section shall be limited to that action;

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## NJ Licensure on Confidentiality

- o The patient or client is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to a compulsory process or the right to present testimony and witnesses on that person's behalf; or
- o A patient or client agrees to waive the privilege accorded by this section, and, in circumstances where more than one person in a family is receiving social work services, each such family member agrees to the waiver. Absent a waiver from each family member, a social worker shall not disclose any information received from any family member

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## Confidentiality and Disclosure

- What needs to be disclosed?
- Why?
- How much information should be shared?
- Who needs to know?
- Get informed consent in writing.
- Are there laws mandating disclosure?
  - o 2004 reporting requirement youth suicide.

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## Minors and Confidentiality

- Social Workers must try to maintain confidentiality.
  - o Code doesn't differentiate
- Parent, Guardian or Court can waive.
- Best Interests and developmental level.
- If over 14, may have to consent as well.

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## Options for Parental Inquiries

American School Counselor Assn. and Gale Group

- Try to set parameters in the beginning.
- Show parents empathy and Listen.
- Reframe this issue as a developmental issue.
- Discuss the Code and the import of confidentiality, trust and ability to help.
- Ask the Child
- Tell the child
- Facilitate Communication.

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## Rule of Thumb

- Absent valid consent, do not release confidential information without Court Order
- Document the facts

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## Privilege

- Premise that all evidence is admissible.
- Our system of jurisprudence is based on fact finding and truth seeking.
- All Evidence is admissible unless it is irrelevant, prejudicial or privileged.



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Professor Wigmore on Privilege



- The communications must originate in a confidence that they will not be disclosed.
- This element of confidentiality must be essential to the full and satisfactory maintenance of the relation between the parties.

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### WIGMORE

- Keeping such information confidential must be essential to the maintenance of the relationship between the social worker and the client.
- It must be emphasized that without the protection of confidentiality, a client would not feel safe disclosing information about personal history to a social worker.

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### WIGMORE

- The community must support the relationship between a client and a social worker and strongly believe in the necessity of that connection.
- The community benefits by the relationship, in that clients who have the support and safety of counseling are more likely to be productive, use less costly services, escape from abusive relationships etc.

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## WIGMORE

- The damage done to the relationship between a social worker and a client if there was no confidentiality must be greater than the benefit of free disclosure in the court process.
- It must be shown that the results of free disclosure of information given by a social worker are far worse than what the legal process or a party to a litigation suffers without such disclosure.

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## ISSUES RELATED TO PRIVILEGE

- Is there a protected relationship
- Who holds the privilege?
- Who can waive the privilege
- How is privilege waived?
- What are the exceptions?
- What is the legislative intent?

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## Privileges In New Jersey Currently Apply

- Social Worker Privilege
- Marriage Counselor Privilege
- Crime Victim Counselor Privilege
- Psychologist Patient Privilege
- Cleric Penitent Privilege



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## Service Provider- Patient Privilege (NEW)

- Went into effect July 1, 2016
- "Mental-health service provider" means a person authorized or reasonably believed by the patient to be authorized to engage in the diagnosis or treatment of a mental or emotional condition, and is specifically intended to include:

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## Applies to

- Psychologists, Psychiatrists/Physicians, Marriage and Family Therapists, Social Workers, Certified Alcohol and Drug Counselors, Nurses, Professional counselors, associate counselors, rehabilitation counselors, psychoanalysts, midwives, Physician's Assistants, Pharmacists

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## Definitions

- Victim Counselors: Still are guided by Victim Counselor Privilege N.J.S.A. 2A:84A-22.14c

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## Definitions

- "Patient" means an individual, who undergoes diagnosis or treatment with or by a mental-health service provider for the purpose of diagnosis or treatment related to that patient's condition of mental or emotional health, including addiction to legal or illegal substances, whether referred to as client, person in therapy, or some other equivalent term in the context of the relationship.

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## Definitions

- "Confidential communications" means such information transmitted between a mental-health service provider and patient in the course of treatment of, or related to, that individual's condition of mental or emotional health, including information obtained by an examination of the patient, that is transmitted in confidence, and is not intended to be disclosed to third persons, other than:

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## Definitions

- those present to further the interest of the patient in the diagnosis or treatment;
- those reasonably necessary for the transmission of the information, including the entity through which the mental-health service provider practices; and
- persons who are participating in the diagnosis or treatment of the patient under the direction of a mental-health service

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## Definitions

- provider, including authorized members of the patient's family, the patient's guardian, the patient's conservator, and/or the patient's personal representative.

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## Definitions

- "Diagnosis or treatment" shall include consultation, screening, interview, examination, assessment, evaluation, diagnosis or treatment.

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## General Rule of Privilege

- A patient has a privilege to refuse to disclose in a proceeding, and to prevent any other person from disclosing confidential communications as defined in subsection (a)(1).

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## Who holds the Privilege?

- The privilege under this rule may be claimed by the patient, the patient's guardian or conservator, the personal representative of a deceased patient, or if authorized by the patient, a member or members of the patient's family. The person who was the mental-health service provider at the time of the communication is presumed to have authority to claim the privilege,

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## Who Holds The Privilege?

but only on behalf of the patient or deceased patient

- The mental-health service provider shall claim the privilege unless otherwise instructed by the patient or, as applicable, members of the patient's family, the patient's guardian or conservator, or the personal representative of a deceased patient.

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## this rule for a communication

- (1) Relevant to an issue of the patient's condition in a proceeding to commit the patient or otherwise place the patient under the control of another or others because of alleged incapacity;
- (2) Relevant to an issue in a proceeding in which the patient seeks to establish his competence, or in a criminal matter where the defendant's competence to stand trial is put at issue;

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## No privilege

- (3) Relevant to an issue in a proceeding to recover damages on account of conduct of the patient which constitutes a crime;
- (4) Upon an issue as to the validity of a will of the patient;
- (5) Relevant to an issue in a proceeding between parties claiming by testate or intestate succession from a deceased patient;

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## No privilege

- (6) Made in the course of any investigation or examination, whether ordered by the court or compelled pursuant to Court Rule of the physical, mental, or emotional condition of the patient, whether a party or a witness, with respect to the particular purpose for which the examination is ordered, unless the court orders otherwise, and

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## No privilege

provided that a copy of the order is served upon the patient prior to the communication, indicating among other things that such communications may not be privileged in subsequent commitment proceedings;

- (7) Relevant to an issue in a proceeding in which the condition of the patient is an element or factor of the claim or defense of the patient or of any party claiming

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## No privilege

- through or under the patient or claiming as a beneficiary of the patient through a contract to which the patient is or was a party or under which the patient is or was insured;
- (8) If the court finds that any person, while a holder of the privilege, has caused the mental-health service provider to testify in any proceeding to any matter of which the mental-health service provider gained knowledge through the communication;

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## No privilege

- (9) In the course of mental health services sought or obtained in aid of the commission of a crime or fraud, provided that this exception is subject to the protections found in N.J.R.E. 501 and N.J.R.E. 509 and is not intended to modify or limit them;

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## No privilege

- (10) Relevant to an issue in a proceeding against the mental-health service provider arising from the mental-health services provided, in which case the waiver shall be limited to that proceeding.
- (11) Relevant to a proceeding concerning an application to purchase, own, sell, transfer, possess or carry a firearm, including but not limited to, applications concerning the return of a firearm in a DV matter.

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Disclosure Pursuant to Statutory Duty to Report  
to a Public Official or Office.

- Nothing in this rule shall prevent a court from compelling disclosure of a statement by a mental-health service provider, patient or other third party to a public official when such statement is made in compliance with a statutory duty to report to a public official or information required to be recorded in a public office that was in fact recorded in a

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- public office, including but not limited to reports of child or elder abuse or neglect or the abuse or neglect of disabled or incompetent persons, unless the statute requiring the report of record specifically provides that the statement or information shall not be disclosed .

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## Court and Constitution

- Nothing in this rule shall prevent a court from compelling disclosure where:
  - the patient has expressly or implicitly waived the privilege or authorized disclosure; or
  - exercise of the privilege would violate a constitutional right.
- Note: Court can always pierce a privilege for good cause

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- *State v. J.G.*, 261 N.J. Super. 409 (1992)
- *Kinsella v. Kinsella*, 150 N.J. 276; 696 A.2d 856 (1997)
- *Fitzgibbon v. Fitzgibbon*, 197 N.J. Super. 63; 484 A.2d 46 (Ch. Div. 1984)
- *In re Kozlov* 79 N.J. 232 (1979)
- *Pennsylvania v. Richie* 480 U.S. 39 (1987)

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### *Jaffee v. Redmond*

518 U.S. 1 (1996)

- United States Supreme Court extended privileged communication to clinical social workers
- Recognized clinical social workers as licensed professionals with authority to diagnose and treat mental disorders

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### Liability

- *Runyon v. Smith*, 163 N.J. 439, (2000)
  - psychologist breached the psychologist-patient privilege when she testified against patient at hearing regarding temporary restraining order that patient had obtained against estranged husband, and patient was entitled to seek damages for the unauthorized divulgence.

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## DUTY TO PROTECT

- No general duty except if statutory, or special relationship gives rise to duty.
- Duty to Report Child Abuse:
  - Any person having reasonable cause to believe that a child has been subjected to child abuse or acts of child abuse shall report the same immediately to the Department of Child Protection and Permanency, by telephone or otherwise.
  - Failure to report is a Disorderly persons offense
  - *State of N.J. v. Snell*, 314 N.J. Super. 331 (1998)

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## Duty to protect: Elder Abuse

- **NJSA 52:27D-409(1)** A health care professional, law enforcement officer, firefighter, paramedic or emergency medical technician who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation shall report the information to the county adult protective services provider.  
**(2)** Any other person who has reasonable cause to believe that a vulnerable adult is the subject of abuse, neglect or exploitation may report the information to the county adult protective services provider.

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## Elder Abuse

**NJSA 30:1A-3** Any person who has reasonable cause to suspect that a resident of a residential health care facility, rooming house or boarding house is suffering or has suffered abuse or exploitation, shall report such information in a timely manner to the Commissioner of the Department of Human Services or to the person or agency within the department designated by the commissioner to receive such reports.

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## DUTY TO WARN

- *Tarasoff v. Regents of the University of California*, 131 Cal.Rptr. 14; 551 P.2d 334 (1976)
  - They must exercise a reasonable degree of skill, knowledge and care ordinarily possessed and exercised by members of their profession.
  - Having exercised such a reasonable degree of skill, therapist who find that a patient poses a serious danger of violence to others bear a duty to exercise reasonable care to protect the foreseeable victim of such danger
  - The California Supreme Court held that a therapist had a duty to warn a foreseeable victim or others who could have been expected to warn the potential victim

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## DUTY TO WARN

- *McIntosh v. Milano*, 168 N.J. 466; 403 A.2d 500 (Law Div 1979)"
  - "a psychiatrist or a therapist may have a duty to take what ever steps are reasonably necessary to protect an intended or potential victim of his patient when he determines, or should determine, in the appropriate factual setting and in accordance with the *standards of his profession* established at trial, that the patient is or may present a probability of danger to that person. The relationship giving rise to that duty may be found either in that existing between the therapist and the patient . . . or in the more broadly based obligation a practitioner may have to protect the welfare of the community, which is analogous to the obligation a physician has to warn third persons of infectious or contagious disease."

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## STATUTORY DUTY TO WARN and PROTECT

- N.J.S.A. §2A:62A-16
  - The patient has communicated to that practitioner a threat of *imminent serious violence* against a *readily identifiable individual* or against himself and the circumstances are such that a reasonable professional in the *practitioner's area of expertise* would believe the patient intended to carry out that threat;
  - The circumstance are such that a *reasonable professional* in the practitioner's area of expertise would believe that patient intended to carry out an act of imminent, serious physical violence against a readily identifiable individual or against himself.

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**N.J.S.A. §2A:62A-16**  
**Ways to Discharge the Duty**

- c. A licensed practitioner of psychology, psychiatry, medicine, nursing, clinical social work or marriage counseling shall discharge the duty to warn and protect as set forth in subsection b. of this section by doing any one or more of the following:

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**N.J.S.A. §2A:62A-16**  
**Ways to Discharge the Duty**

- (1) Arranging for the patient to be admitted voluntarily to a psychiatric unit of a general hospital, a short-term care facility, a special psychiatric hospital or a psychiatric facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);
- (2) Initiating procedures for involuntary commitment to treatment of the patient to an outpatient treatment provider, a short-term care facility, a special psychiatric hospital or a psychiatric facility, under the provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.);

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**N.J.S.A. §2A:62A-16**  
**Ways to Discharge the Duty**

- (3) Advising a local law enforcement authority of the patient's threat and the identity of the intended victim;
- (4) Warning the intended victim of the threat, or, in the case of an intended victim who is under the age of 18, warning the parent or guardian of the intended victim; or

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**N.J.S.A. §2A:62A-16**

**Ways to Discharge the Duty**

- 5) If the patient is under the age of 18 and threatens to commit suicide or bodily injury upon himself, warning the parent or guardian of the patient.
- d. A practitioner who is licensed in the State of New Jersey to practice psychology, psychiatry, medicine, nursing, clinical social work or marriage counseling who, in complying with subsection c. of this section, discloses a privileged communication, is immune from civil liability in regard to that disclosure.

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**Supervision and Confidentiality**

- SMITH-BOZARTH v. THE COALITION AGAINST RAPE AND ABUSE, INC., 329 N.J. Super. 238 (2000)
  - We conclude that there is no clear mandate of public policy that prohibits the head of a social services agency from obtaining unrestricted access to the agency's files.

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**HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT**

- Must develop written privacy policies,
- Must provide a notice of privacy practices to all clients
- Must use approved authorizations to release client records.
- Psychotherapy Notes are protected from release if
  - Separated from the rest of the individual's clinical record

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## Exceptions to the Privacy Rule

- When needed to defend a lawsuit against the therapist by the individual who is the subject of the notes (DHHS, § 164.508 (a)(2)(i)(C));
  - To HHS when required for enforcement of the Privacy Rule (DHHS, § 164.508 (a)(2)(ii));
  - When required by law (DHHS, § 164.512(a));
  - When needed for oversight of the provider who created the notes (DHHS, § 164.512(d));
  - To a coroner or medical examiner (DHHS, § 164.512(g)(1));
  - When needed to avert a serious and imminent threat to health or safety (DHHS, § 164.512(j)(1)(i)).
- NASW, [http://www.socialworkers.org/ldf/legal\\_issue/200606.asp](http://www.socialworkers.org/ldf/legal_issue/200606.asp)

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## Assessment, Diagnosis and Treatment

- Take a complete history.
- Do not over or under diagnose.
- The DSM-IV TR is all we have.
- Use common sense and critical judgment.
- Base treatment on adequately researched theories and interventions.
- Obtain informed consent.

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## Pop Diagnosing and Syndromes

- A syndrome is "a combination of signs and/or symptoms that forms a distinct clinical picture indicative of a particular disorder."
- Is it accepted in the DSM?
  - Parental Alienation Syndrome
  - Battered Women Syndrome
- Research, Peer Review, Acceptance.

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### Liability to Third Party for Treatment

- P.T. v. Richard Hall Community Mental Health Center 364 N.J. Super. 561; 837 A.2d 436; 2002 N.J. Super. LEXIS
  - court-appointed psychologist performing an evaluation and issuing a report and recommendations to the Family Part is entitled to absolute immunity.
  - also held that a psychologist, who evaluates and treats a minor child suspected to be the victim of sexual abuse, owes no duty of care to the grandparents of the non-custodial parent and to the non-custodial parent, who is accused of sexual abuse.

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### Liability to Third Party for Treatment

- held in the alternative that the record disclosed no evidence that any act or opinion of the psychologist proximately caused any of the claimed injuries.
- the psychologist was protected by the litigation privilege and the statutory DYFS reporting immunity

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### Relationships with Clients

- Dual Relationships
- Intimate relationships
- Out of Office Contact
- Business Relationships



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## Analysis of Dual Relationship

- **Dual relationships** which could limit objectivity, impair professional judgment or increase risk of exploitation.
- Include, but are not limited to, professional treatment of employees, tenants, students, supervisees, close friends or relatives.
- Entering into any business relationships or paying or bartering for any services provided by any current client shall also be prohibited.
- What happens after the relationship sours?

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## Dual Relationships

- A licensee shall not enter into financial arrangements with clients which are likely to impair professional judgment. Improper financial arrangements shall include, but are not limited to, loans (whether borrower or lender) or assumption of liabilities for debt.  
N.J.A.C.13:42-10.13
- Power
- Duration
- Termination



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## Relationships New Code

- (e) Social workers should avoid communication with clients using technology (such as social networking sites, online chat, e-mail, text messages, telephone, and video) for personal or non-work-related purposes.
- (f) Social workers should be aware that posting personal information on professional Web sites or other media might cause boundary confusion, inappropriate dual relationships, or harm to clients.
- (g) Social workers should be aware that personal affiliations may increase the likelihood that clients may discover the social worker's presence on Web sites, social media, and other forms of technology. Social workers should be aware that involvement in electronic communication with groups based on race, ethnicity, language, sexual orientation, gender identity or expression, mental or physical ability, religion, immigration status, and other personal affiliations may affect their ability to work effectively with particular clients.
- (h) Social workers should avoid accepting requests from or engaging in personal relationships with clients on social networking sites or other electronic media to prevent boundary confusion, inappropriate dual relationships, or harm to clients.

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• (g) Social workers should be aware that personal affiliations may increase the likelihood that clients may discover the social worker's presence on Web sites, social media, and other forms of technology. Social workers should be aware that involvement in electronic communication with groups based on race, ethnicity, language, sexual orientation, gender identity or expression, mental or physical ability, religion, immigration status, and other personal affiliations may affect their ability to work effectively with particular clients.

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• (h) Social workers should avoid accepting requests from or engaging in personal relationships with clients on social networking sites or other electronic media to prevent boundary confusion, inappropriate dual relationships, or harm to clients.

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**Electronic Communications**

- 1.09 Sexual Relationships
- 1.11 Sexual Harassment
- 1.12 Derogatory Statements
- 2.06 Sexual relationships Supervisors
- 2.07 Sexual Harassment
- 3.02(d) Dual Relationships in Supervision

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**Client Autonomy and Informed Consent**

- Consent to Treatment.
  - Capacity to give consent.
    - Age
    - Mental health
    - Influence of medication, alcohol or drugs
  - Voluntary Nature
  - Fact and knowledge basis

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**Common Law**

- (1) under the age of seven years the presumption of incapacity is conclusive; (2) between the ages of seven and 14 years there is a rebuttable presumption of incapacity; and (3) above the **age of 14** years there is a rebuttable presumption of capacity

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**Minor's Right to Consent**

- Consent to Treatment – Must be 18 yrs or older.
  - If over 14, consent of client may be needed as well.
- Emergency exceptions.
  - Parens Patriae – Court or State
- **In re Commitment of N.N., 146 N.J. 112**
  - Right to Consent to Inpatient
- Federal Law: Substance abuse and reproductive issues
- Get waiver from parents for full disclosure

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## Minor's can Consent to:

- Treatment for sexually transmitted diseases and HIV
  - NJSA 9:17A-4
- Treatment for drug or alcohol abuse.
  - NJSA 9:17A-4
- Medical treatment for sexual assault.
  - NJSA 9:17A-4
  - If physician decides in best interest of child

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## Minor's can Consent to:

- Pregnancy services or prenatal care.
  - NJSA 9:17A-1
- Contraceptives.
  - NJSA 9:17A-1
- Abortion
  - NJSA 9:17A-1.4

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## Boys and Girls Club Keystone Law

- Minor over the age of 16 can consent to behavioral health care services for the treatment of mental illness or emotional disorders,
- Under the supervision of . . . certified social worker, licensed clinical social worker, licensed social worker . . .
- Treatment for behavioral health care services for mental illness or emotional disorders that is consented to by a minor shall be considered confidential information

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### Duty to Treat and Completion of Therapy and Termination

- Hospital v. Private Practice.
- Abandonment.
- Insurance Limits:
  - Transfer,
  - Advocate,
  - Pro Bono.

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### Duty to Report Misconduct

- NJAC 13:44G-10.8 The SW shall promptly notify the Board when in possession of information that reasonably indicates that another SW has demonstrated
  - Impairment
  - Gross incompetence
  - Unprofessional conduct that presents imminent danger to client or public health, safety or welfare

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### Reporting Misconduct

- Client should make report. SW to make report if client unwilling but only with consent of client.
- When the information is obtained in the course of treating a client-social worker, the treating social worker shall not be obligated to notify the Board if:
  - the treating social worker reasonably believes that the improper conduct has ceased and that the treatment is preventing a recurrence of the impairment, incompetence or professional misconduct; or
  - The treating social worker has reasonable cause to believe that the client-social worker is currently receiving professional supervision and pursuing education to correct the deficiency.
- Psychologist are required to discuss with accused colleague.

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## CHARITABLE IMMUNITY

- Organized as a non profit
- Most money from private sources
  - Abdallah v. Occupational Center of Hudson County, Inc., 351 N.J. Super. 280, 798 A.2d 131 (App. Div. 2002); May 30, 2002
- Organization, board, staff and volunteers not liable for Ordinary Negligence
- No protection for Gross Negligence
  - evidence a reckless disregard
  - willful, wanton or grossly negligent

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## DOCUMENTATION CYA

- Notes
- Letters
- Phone calls
- If it ain't in writing, it didn't happen.



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## CONCLUSION

- Supervision.
- Obtain legal advice
- Is there a protected relationship?
- Is there a duty?
- Assert the privilege except as required by law.
  - Child Abuse.
  - Imminent harm to a clearly identifiable person.

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