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How Has the Code of Ethics Weathered COVID-19?

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Abstract

Countries, communities, institutions, families, and individuals all live by a code of ethical standards. Social work takes pride in conducting itself according to a set of written ethical principles and standards that are derived from the core values of the profession. Depending on the state, the Code of Ethics, or parts thereof, may have the force of law. To ensure that the *Code* remains relevant it must have an inherent character that is neither too rigid nor too flexible, and it must be interpreted in such a way as to reflect the constantly changing dynamics and pressures of the social work profession and society. The COVID-19 pandemic has surely tested the mettle of the *Code*, as practitioners began to provide telehealth services, with or without weighing important practice provisions, core values, ethical principles and standards, and critical areas of knowledge. The article seeks to examine existing interpretations of the *Code* and the influence they have on social work practice during the pandemic. Most importantly, the article aims to broaden practitioners' awareness and judgement regarding ethical and legal duties in social work practice.

Keywords: Code of Ethics, COVID-19, social work practice, ethical decision-making processes

Introduction

Countries, communities, institutions, families, and individuals all live by a code of ethical standards. That code may be established formally or informally. It may be legal or merely traditional. Social work takes pride in conducting itself according to a set of written ethical principles and standards that are derived from the core values of the profession. Depending on the state, the Code of Ethics, or parts thereof, may have the force of law. To ensure that the *Code* remains relevant it must have an inherent character that is neither too rigid nor too flexible, and it must be interpreted in such a way as to reflect the constantly changing dynamics and pressures of the social work profession and society. COVID-19 has surely tested the mettle of the *Code*.

As the social work profession continues to evolve, professionals have turned their attention to research and the creation of knowledge to further inform their social work mission (Reamer, 1993). The development of knowledge, along with the values of the *Code*, serves as a guide for professionals as they engage in practice and attempt to resolve ethical dilemmas. Gordon (1965) speaks of the importance of carefully assessing case implications in order to properly apply the use of values and/or knowledge when resolving ethical dilemmas. He further asserts that, "If a value is used as a guide in professional action when knowledge is called for, the resulting action is apt to be ineffective," and therefore professionals need to carefully consider the "exceptions to existing generalizations" (p. 32). Yet, during these months of the pandemic, practitioners struggle to balance and appropriately apply the use of knowledge and values. The uncertainty of the times and the magnitude of the losses amplify the underlying tensions between personal and professional values, ethics, and standards, as well as existing conflicts between clinicians and mental health agencies. This is mostly seen in the sudden elasticity of the *Code* and the fluidity in the interpretations of its principles.

In due course, these ethical violations are the basis for legal malpractice. Consequently, this article examines areas of the *Code* and explains how

clinicians may have misinterpreted the principles and/or resolved ethical conflicts during the pandemic with extreme flexibility. This will provide social workers with the space to engage in self-reflection and critical thinking, to explore the influence of personal biases and values, and to seek the guidance and support needed to uphold the professional standards of social work practice. The article is not addressing the work of the National Association of Social Work (NASW) Delegate Assembly, but rather social workers who utilize the Code of Ethics as a framework for practice.

Among others, these particular parts of the *Code* seem to be impacted: Competence (1.04), Privacy and Confidentiality (1.07), Access to Records (1.08), Payment for Services (1.13), Clients Who Lack Decision-Making Capacity (1.14), Interruption of Services (1.15), Termination of Services (1.17), Impairment of Colleagues (2.08), Unethical Conduct of Colleagues (2.10), Client Records (3.04), Billing (3.05), Discrimination (4.02), Dishonesty, Fraud, and Deception (4.04), Impairment (4.05), and Integrity of the Profession (5.01) (NASW, 2021).

Competence 1.04

The national emergency shutdown limited social workers' ability to properly prepare for the change in provision of services. Nonetheless, in commitment to their clients, agencies and private practitioners immediately set forth to provide care remotely. While this is in alignment with the core value of service, it seems that professionals may have inadvertently overlooked the importance of broadening their scope of knowledge in regard to telehealth services. This misuse of values for knowledge speaks to Gordon's concerns (1965). While these social workers prioritize the continuity of care, they simultaneously undermine the importance of human behavior and the stages of development. In consideration of this knowledge, it seems that children, elders, and those belonging to high-risk populations, would struggle to adjust to telehealth. As a child psychotherapist explains, "There are certain games we could play over Zoom, but it's limited, and this is going on for so many months, so at a certain point, we kind of run out of

things to play." (Shklarski et al., 2021 p. 59). In a similar vein, Banks et al. (2020) exclaim, "How do we decide whether it is more caring and responsible to visit an isolated older person, or to stay away?" (p. 570).

This also raises a concern about the importance of social workers practicing in the scope of their education and training. Many practitioners lack competent training to provide care via telehealth, and even more so, technology is novel for many professionals. It is complex, nuanced, and demands an enhanced level of skill. Despite this awareness, a recent study shows that only 18.5% of participants actively engaged in trainings to learn the therapeutic skills needed for telehealth services. The study further indicates that 74.9% reported feeling a heightened level of fatigue and 47.8% report that they struggle to connect with their clients through the screen (Shklarski et al., 2021 p. 59). While awareness is an essential tool in providing competent care, it is imperative that social workers address their limitations.

Privacy and Confidentiality 1.07

Without much notice, social workers were forced to create temporary spaces to connect with clients. These makeshift offices, often within private residences, make it exceedingly difficult to maintain client privacy and confidentiality. Many report that telehealth compromises client privacy "due to the presence of social workers' and/or service users' family members…" (Banks et al., 2020, p. 572). Sessions are being conducted, documentation is being recorded, and private calls are being taken in shared spaces. This presents a barrier for many social workers as environmental stimuli distracts them from their work. As a social worker reports,

> My husband mixed up my schedule and showed up in the room during a session; I had to shoo him away without the client knowing. (Shklarski et al., 202, p. 61).

The lack of privacy also inhibits clients from sharing delicate, private matters (Shklarski et al., 2021). Privacy and confidentiality serve as protective measures for disclosures such as domestic violence, child maltreatment,

and abuse. Without these elements of safety, clients are more likely to avoid disclosing and addressing critical issues. As Shklarski and her colleagues (2021) state, "For clients living in small, crowded spaces without access to headphones, and for children with intrusive parents, disclosure became more difficult." (p. 60). Subsequently, recent studies show that child maltreatment rates are steadily increasing throughout the pandemic. In the Journal of Child Abuse and Neglect, a recent publication highlights that "child protection is [and will be] deeply impacted by the COVID-19 pandemic" (Katz et al., 2020, p. 1). Minors and other vulnerable populations are being denied opportunities for relief. Even though the threats of the pandemic persist, social workers need to remain resolute in maintaining their professional responsibilities to safeguard the well-being of the people.

Access to Records 1.08

Telehealth has become progressively more common because of the pandemic. Social workers are maximizing their use of technology to engage in treatment planning, consultations, assessments, psychotherapy, resourcing, advocacy, and other client needs. While this change of service is highly adaptive, social workers cannot disregard the inherent dangers of online communication. Client requests for records and releases can now only be provided verbally or electronically. Social workers can also only send the records via email, mail, or through other social media platforms. This use of technology, including the internet, email, SMS, Zoom, FaceTime, and other social media networking platforms, creates several professional and ethical concerns. As Reamer (2017) explains, social workers need to consider the risk of electronic identity theft, clients' access to the internet, and their limited knowledge and fluency with technology. There is also concern for cyberattacks, viruses, and other potential problems. Moreover, researchers note that practitioners need to be cognizant of state and national boundaries as "the transmission of client data across these boundaries poses legal, ethical, and financial issues that directly affect social workers involved in telehealth" (McCarty et al., 2002, p. 157). In fact, there is a strong likelihood

that many of these matters may snowball into legal issues. Although these adaptations were intended to meet the clients' needs in uncertain times, this mode of service needs to be used in alignment with the core values of the profession.

Payment for Services 1.13

This standard emphasizes that the fee for service should match the value of care provided to clients. Value of service may be contingent on experience, skill, level of education, specialty, and/or location. With telehealth potentially impeding on the quality of care, social workers are faced with an ethical dilemma. Once again, they are required to balance their use of knowledge and values (Gordon, 1965). Simply stated, if social workers are aware that the nature of telehealth impacts the value of care, should their fee for service decrease proportionally? As noted above, the *Code* clearly states that fees should be fair and reasonable (NASW, 2021). Demanding equivalent pay when the quality of service is diminished seems to contravene a basic ethical principle.

Clients Who Lack Decision-Making Capacity 1.14

Oftentimes, clients lack the intellectual or mental capacity to make informed decisions regarding significant life choices and treatment planning. Under such circumstances, the *Code* mandates that social workers act on their behalf to protect the clients' basic human rights and needs. The recent changes in social work services, particularly the decision to operate via telehealth, requires social workers to help their clients make informed decisions. Most specifically, many social workers presume that it would be in the best interest of their clients to continue services via telehealth, irrelevant of client circumstances and individualized needs. The basis of this challenge lies in the varied ideological perspectives regarding the quality of telehealth services, the dangers of COVID-19, and in making the determination that in-person treatment is not an implicit right for clients. As a social worker from the Netherlands exclaims, "To what extent am I allowed to trust my

common sense and professional senses and not follow these guidelines?" (Banks et al., 2020, p. 573). Clients' needs vary and conducting in-person services may constitute what the *Code* implies by "taking reasonable steps to safeguard the interests and rights of the clients" (NASW, 2021).

Interruption of Services 1.15

Despite the global pandemic, social workers are expected to continue to provide services to their clients. Indeed, social workers are considered 'essential' employees in various states nationwide. On March 7, 2020, then New York Governor Mario Cuomo executed Executive Order 202.18 (Office of the Professions, 2020). In doing so, private practices and social work agencies were granted legal authorization to remain open throughout the pandemic to ensure the continuity of competent care. Nonetheless, many providers continue to remain closed. This is despite the adverse effects that telehealth has on the therapeutic experience, the inevitable disruptions of remote sessions, and the patients' lack of access to technological devices. While many professionals argue that the continuity of services via telehealth is one way of protecting the *Code*'s standard of interruption of services, it seems to indirectly impose on clients' rights of value of service. The New York Office of Mental Health legally permits agencies to operate remotely: "OMH is allowing the use of telehealth and telephonic intervention across much of the provider system to allow maximum flexibility in service delivery" (Office of Mental Health, 2020, p. 1). Yet, OMH also asserts that "Agencies providing services to individuals with mental illness and operated, licensed, designated, funded, or authorized by the Office of Mental Health, qualify as an essential business, and should remain in operation to the extent necessary to provide those services." (Office of Mental Health, 2020, p. 1). These statements seem to imply that while telehealth is permitted to create a more flexible structure, mental health agencies can resume normal functioning so they can adequately service the needs of their clients. The conflicting guidelines seem to allude to the ethical and legal struggles that contemporary social workers face regularly.

Termination of Services 1.17

While it is often clear when clients are ready for termination, the current circumstances likely complicate this process. That is, many clients may choose to terminate care because of their difficulties with engaging in telehealth, irrespective of their needs. Others may be forced to terminate due to an inability to access resources such as technological devices, internet service, or a private location. Consequently, a social worker from the United States reports that she is continuing to welcome clients into her office because their mental health struggles are hindering their capacity to adapt to telehealth and engage in further treatment (Gewirtz, 2020). To avoid premature termination, and to abide by other values of the *Code*, she is making this independent choice. The change in services most certainly creates an ethical challenge as social workers attempt to ensure the continuity of care.

Impairment of Colleagues 2.08

The social work profession is recognized for having high burnout rates (Peinado et al., 2020). Witnessing widespread incidents of abuse, trauma, social injustice, inequalities, and other social problems has a strong impact on their emotional well-being. At times, social workers' personal, mental, physical, and relational struggles also limit their capacity to effectively support others. Consequently, many professionals engage in ongoing psychotherapy, supervision, and self-care regimens to avoid burnout and work impairment. Yet, the overwhelming needs of the population during the pandemic, compounded by the increase of compassion fatigue, vicarious trauma, and loss of social support, has likely interrupted their self-care rituals and quality of work (Peinado et al., 2020). While social workers are ethically mandated to assist struggling colleagues, this obligation is further complicated by the diminished face to face contact. Telehealth reduces peer interactions thereby decreasing the likelihood of identifying psychological distress and impaired work quality among colleagues. It also limits the opportunities for colleagues to exchange a kind remark, a pat on the back, a smile, or a word of encouragement. These seemingly insignificant gestures

provide social workers with the grit to continue their challenging work. In the absence of these interactions, vulnerable populations are more susceptible to harm. The paradox is that it will be caused by those who are expected to protect.

Unethical Conduct of Colleagues 2.10

The COVID-19 pandemic has separated family, friends, and coworkers. While the media discusses the losses of being isolated from others, few sources address the ethical dangers of being separated from fellow professionals. The nature of social work practice makes it difficult to identify unethical conduct of colleagues. Working in-person allows for some of their behaviors to be observable by colleagues. On the other hand, telehealth dramatically decreases the quantity and quality of these interactions. Recent policy revisions also blur the boundaries of ethical and legal standards. These changes complicate matters, making it harder for social workers to detect unethical and illegal behaviors among their colleagues.

Client Records 3.04

The obligation to maintain clients' records remains in effect despite the universal shift to remote care. While technology seems to support this need, it also creates ethical and legal concerns. Recording documentation on technological devices can limit clients' right to privacy as there are numerous risks with securing data on the internet. A study that explores cybersecurity measures throughout the pandemic explains that society is simultaneously facing a "cybersecurity pandemic" (Ramadan et al., 2021, p. 3) That is, the risk for identity theft and cyberattacks are surging as more people use the internet for personal and professional purposes.

This increases the concern about professionals' capacity to protect client records while working remotely. Many of these records are being secured on personal devices that are accessible to others. It is important that social workers educate themselves on the inherent risks of technology, seek the necessary guidance, and implement safety precautions. Moreover, it is

imperative that clients are aware of these changes to protect their rights of self-determination and confidentiality.

Billing 3.05

The inherent challenges in providing telehealth led the New York Office of Mental Health to devise an updated guideline for temporary minimum billing requirements (Office of Mental Health, 2020). The goal is to allow for the intensity and frequency of previous services in clinics to remain constant as well as to support agencies in maintaining staffing levels. For example, psychotherapy sessions that are normally thirty minutes can now be conducted in a minimum of sixteen minutes (Office of Mental Health, 2020). Initial assessment and treatment planning services have no minimum requirement. While these updated guidelines are intended to ensure the continuity of care, they seem to defy the *Code*'s standard of billing. It seems highly unlikely that even a seasoned professional can adequately assess a client's need areas and goals, or provide competent care, in such a short time span. Normally, clients need a few minutes to acclimate to the therapy setting, twenty-thirty minutes to engage in the work, and additional time to ground themselves after being in an emotionally heightened state (Gans, 2016). The research further emphasizes that the phases of a therapy session seem unremarkable to an observer; however, the components of the session are relationally complex, and sixteen minutes is not nearly enough time to properly attend to all of them. Aside from being unable to engage in deep work, it also makes it increasingly difficult to prioritize the client's need for empathy, validation, and support (Gans, 2016). Formulating a treatment plan, conducting a session, or an assessment in a mere few minutes also seems to challenge the ethical standards of competence and payment for services. These billing changes attempt to maintain the quantity of services but seem to simultaneously overlook the quality of care.

Discrimination 4.02

Notwithstanding the probability that most social workers are compassionate and accepting towards others, tolerance and justice are ethical mandates. Undoubtedly, the Coronavirus pandemic has tested this standard of the *Code*. The overuse of telehealth seems to discriminate against those who cannot adapt to these services based on cultural, religious, financial, physical and/or mental health limitations. As Madigan et al. (2020) state, "although telemental health can reduce some systemic barriers, it also has the potential to exacerbate others, particularly social inequalities" (pp. 6-7). The elderly, poor, physically disabled, and those cognitively and mentally impaired may lack the necessary resources to engage in remote services. Clients with mental impairments, such as psychotic, neurocognitive, and/or personality disorders, may be unable to engage in telehealth. Vision and hearing impairments may also present as barriers to treatment. Failing to consider those most vulnerable is not only discriminatory behavior, but also defies the basic social work values of service, social justice, and dignity and worth of the person.

Dishonesty, Fraud, and Deception 4.04

As society struggles to navigate these unprecedented challenges, social workers attempt to maintain social order. With much grit and dedication, they continue to use their expertise to service the nation. Many private practitioners and agency directors have adjusted policy protocols to meet the revised OMH regulations and program needs. While many of these changes are aligned with ethical and legal mandates, the tumultuous conditions in which they are enacted seem to threaten its validity. It seems that the abrupt change to telehealth has caused many professionals to misguidedly overlook the chances of insurance fallacies, misinterpretation of policy revisions, and fraudulent behaviors amongst social workers. Regardless of the intent, social workers may be billing inaccurately, disregarding legal directives and prohibitions, and/or covertly violating the rights of clients and staff members. As noted in an article written by social workers in the United

Kingdom, "Times of crisis can bring the best in people but can also lead some of us to make decisions we wouldn't usually make. It is important we get the right balance… to protect those of us that need it most." (Turner et al., 2020, p. 2). Whether in times of chaos or tranquility, professionals need to be aware of ethical and legal mandates.

Impairment 4.05

Social workers are not immune to the struggles of humanity; nor are they exempt from the emotional, physical, and financial stressors that have been imposed on society by the pandemic. While many may have taken a sabbatical, retired, or decreased their caseload, others were cajoled or directed to maintain or increase their workload to meet the needs of their agencies and communities. Leaders of the profession made public statements emphasizing the importance of the continuity of social work services during this national emergency. While this need is of paramount importance, it is also concerning. The capacity of social workers is limited by the effects of the pandemic, hindering their ability to provide proficient care. In fact, a recent mixed-method study conducted during the pandemic shows that 60.8% of their participants struggled to support their clients in processing traumatic material because of their personal experiences (Shklarski, 2021, p. 58). Social workers' judgments may be tainted as they attempt to resolve their moral and ethical obligations while also balancing the demands of clients, community representatives, and legal authorities. As a social worker participating in the study of Banks et al. (2020) exclaims, "Social workers are broken down." (p. 573). Regardless of societal pressures to perform, many social workers are struggling with some level of impairment (Banks et al., 2020). For some it may even go beyond conscious awareness.

Integrity of the Profession 5.01

In accordance with the social work standards, "Social workers should act to prevent the unauthorized and unqualified practice of social work." (NASW, 2021, p. 1). This ethical principle is based on the social work core value of

integrity which highlights the imperativeness of acting in a trustworthy manner. The *Code* emphasizes the importance of social workers caring for their personal needs, while also ensuring that their acts are in alignment with professional values, principles, and ethical standards. It further explains that social workers need to abide by the ethical standards proposed by their agencies, which complicates the process of resolving ethical dilemmas for many clinicians during the pandemic. In fact, a study conducted in Israel explores this phenomenon, explaining that social workers struggle to balance personal, professional, and organizational pressures that continue to emerge during these challenging times (Itzhaki-Braun, 2021).

Conclusion

The Code of Ethics provides a framework for social work practice, and in response to its complexity, offers ways to address the influx of ethical dilemmas within the profession. NASW publishes educational articles, provides an ethics hotline, and the opportunity for professionals to join an ethics shared interest group. NASW has also compiled a list of thought-provoking questions for social workers to consider when navigating an ethical dilemma. Additionally, in 2021, the NASW Delegates Assembly added a statement to the purpose section of the *Code*:

> "Professional self-care is paramount for competent and ethical social work practice. Professional demands, challenging workplace climates, and exposure to trauma warrant that social workers maintain personal and professional health, safety, and integrity. Social work organizations, agencies, and educational institutions are encouraged to promote organizational policies, practices, and materials to support social workers' self-care" (NASW, 2021, p. 1).

The well-being of social workers is always important, but it is critical in times of crisis, when they are coping with the stress of a global pandemic alongside their clients.

The greater capacity social workers have to uphold their professional and personal well-being, the better equipped they will be to resolve ethical

dilemmas. Since ethical dilemmas are a definitive component of social work practice, it is imperative for professionals to learn how to balance the application of knowledge and values while refining the skills of ethical analysis. It is the professional's responsibility to monitor their practices, engage in ongoing self-assessments, exercise critical thinking, analyze societal influences, and examine personal biases. These practices, along with supervision and collegial support, will most likely improve their inclination to abide by professional obligations and legal mandates at all times.

As stated, individuals, groups, and professions have a set of ethical rules which they aspire to follow. Like it or not, enforcement of these ethical rules has become a joint enterprise between private institutions and the formal justice system. The better job of self-policing the social worker profession does, the less involved will be the public court system.

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