ETHICAL PRACTICE & LEGAL ISSUES IN SOCIAL WORK SUPERVISION

FIELD INSTRUCTORS TRAINING
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SUPERVISION

- A SOCIAL WORKER/MENTAL HEALTH COUNSELOR WHO ASSUMES THE ROLE OF FIELD INSTRUCTOR OR TASK SUPERVISOR HAS SPECIAL ETHICAL OBLIGATIONS:
  - RESPONSIBLE FOR THE QUALITY OF WORK DONE BY THOSE THEY SUPERVISE
  - MUST HAVE KNOWLEDGE & SKILL IN THE AREAS THEY PROVIDE SUPERVISION
  - EVALUATE THE PERFORMANCE BY USING HELPFUL & FAIR METHODS
  - ASSIST SUPERVISEE’S GAIN KNOWLEDGE & SKILLS
  - MAINTAIN PROFESSIONAL BOUNDARIES

(GARTHWAIT, 2012, P. 39)
STANDARD OF CARE

THE “STANDARD OF CARE” REFERS TO THE WAY AN ORDINARY, REASONABLE, AND PRUDENT PROFESSIONAL WOULD ACT UNDER SIMILAR CIRCUMSTANCES.
WHAT SETS THE STANDARD OF CARE?

• STATE STATUTES

• NASW CODE OF ETHICS

• CASE LAW
SUPERVISION DEFINED

• SUPERVISION PROTECTS CLIENTS, SUPPORTS PRACTITIONERS, AND ENSURES THAT PROFESSIONAL STANDARDS AND QUALITY SERVICES ARE DELIVERED BY COMPETENT SOCIAL WORKERS & MENTAL HEALTH COUNSELORS.

• PROFESSIONAL SUPERVISION IS DEFINED AS THE RELATIONSHIP BETWEEN SUPERVISOR AND SUPERVISEE IN WHICH THE RESPONSIBILITY AND ACCOUNTABILITY FOR THE DEVELOPMENT OF COMPETENCE, Demeanor, AND ETHICAL PRACTICE TAKE PLACE. THE SUPERVISOR IS RESPONSIBLE FOR PROVIDING DIRECTION TO THE SUPERVISEE, WHO APPLIES SOCIAL WORK THEORY, STANDARDIZED KNOWLEDGE, SKILLS, COMPETENCY, AND APPLICABLE ETHICAL CONTENT IN THE PRACTICE SETTING. THE SUPERVISOR AND THE SUPERVISEE BOTH SHARE RESPONSIBILITY FOR CARRYING OUT THEIR ROLE IN THIS COLLABORATIVE PROCESS. (NASW & ASWB BEST PRACTICE STANDARDS, 2012)
3.01 SUPERVISION AND CONSULTATION

3.01(A) SOCIAL WORKERS WHO PROVIDE SUPERVISION OR CONSULTATION SHOULD HAVE THE NECESSARY KNOWLEDGE AND SKILL TO SUPERVISE OR CONSULT APPROPRIATELY AND SHOULD DO SO ONLY WITHIN THEIR AREAS OF KNOWLEDGE AND COMPETENCE.

3.01(B) SOCIAL WORKERS WHO PROVIDE SUPERVISION OR CONSULTATION ARE RESPONSIBLE FOR SETTING CLEAR, APPROPRIATE, AND CULTURALLY SENSITIVE BOUNDARIES.
3.01 SUPERVISION AND CONSULTATION

3.01(C) SOCIAL WORKERS SHOULD NOT ENGAGE IN ANY DUAL OR MULTIPLE RELATIONSHIPS WITH SUPERVISEES IN WHICH THERE IS A RISK OF EXPLOITATION OF OR POTENTIAL HARM TO THE SUPERVISEE.

3.01(D) SOCIAL WORKERS WHO PROVIDE SUPERVISION SHOULD EVALUATE SUPERVISEES' PERFORMANCE IN A MANNER THAT IS FAIR AND RESPECTFUL.
MENTAL HEALTH COUNSELORS

• RELATIONSHIP WITH STUDENTS, INTERNS & EMPLOYEES
  • MENTAL HEALTH COUNSELORS HAVE AN ETHICAL CONCERN FOR THE INTEGRITY & WELFARE OF SUPERVISEES, STUDENTS, & EMPLOYEES. THESE RELATIONSHIPS TYPICALLY INCLUDE AN EVALUATIVE COMPONENT & THEREFORE NEED TO BE MAINTAINED ON A PROFESSIONAL & CONFIDENTIAL BASIS
  • RECOGNIZE INFLUENTIAL POSITION
  • DO NOT ENGAGE IN ONGOING RELATIONSHIPS WITH CURRENT SUPERVISEE, STUDENTS OR EMPLOYEES
  • ALL FORMS OF SEXUAL BEHAVIOR WITH SUPERVISEES, ETC. ARE UNETHICAL (AMERICAN MENTAL HEALTH COUNSELORS ASSOCIATION)
3.02 EDUCATION & TRAINING

3.02 (A) SOCIAL WORKERS WHO FUNCTION AS EDUCATORS, FIELD INSTRUCTORS FOR STUDENTS, OR TRAINERS SHOULD PROVIDE INSTRUCTION ONLY WITHIN THEIR AREAS OF KNOWLEDGE & COMPETENCE AND SHOULD PROVIDE INSTRUCTION BASED ON THE MOST CURRENT INFORMATION & KNOWLEDGE AVAILABLE IN THE PROFESSION. (MENTAL HEALTH COUNSELORS #5)

3.02 (B) SOCIAL WORKERS WHO FUNCTION AS EDUCATORS, FIELD INSTRUCTORS FOR STUDENTS SHOULD EVALUATE STUDENTS’ PERFORMANCE IN A MANNER THAT IS FAIR & RESPECTFUL.
3.02 EDUCATION AND TRAINING

3.02 (C) SOCIAL WORKERS WHO FUNCTION AS EDUCATORS OR FIELD INSTRUCTORS FOR STUDENTS SHOULD TAKE REASONABLE STEPS TO ENSURE THAT CLIENTS ARE ROUTINELY INFORMED WHEN SERVICES ARE BEING PROVIDED BY STUDENTS.

MENTAL HEALTH COUNSELORS – In the informed consent statement, students & employees notify the client they are in supervision & provide their clients with the name & credentials of the supervisor.
RESPONSIBILITIES, CHALLENGES

• DISCUSS EXPECTATIONS EARLY, AS OCCURS WITH CLIENTS
• CONDUCT OPEN & FAIR EVALUATIONS
• PROVIDE AMPLE TIME & OPPORTUNITY TO IMPROVE
• CREATE A SAFE ENVIRONMENT SO INTERN CAN SHARE FEELINGS
• ESTABLISH/MODEL CLEAR & APPROPRIATE BOUNDARIES & PROFESSIONAL BEHAVIOR
RESPONSIBILITIES, CHALLENGES

• DISTINGUISH SUPERVISION & COUNSELING
  • ETHICAL OBLIGATION TO ENCOURAGE & CHALLENGE SUPERVISEES TO FACE & DEAL WITH POTENTIAL BARRIERS
  • IDENTIFY LIMITATIONS OR UNRESOLVED PROBLEMS THAT INTERFERE WITH PRACTICE
  • ENCOURAGE THERAPY IF NEEDED
  • MAKE SUPERVISION PERSONAL BUT NOT THERAPY
  • SUPERVISION IS TEACHING, MODELING, LEADING, GUIDING
  • THERAPY IS THAT BUT ALSO HELPS A PERSON TO CHANGE SELF, BEHAVIOR OR RESOLVE PERSONAL PROBLEMS
  • USING THERAPY IN SUPERVISION RESULTS IN INAPPROPRIATE DUAL RELATIONSHIP WITH INTERN
RESPONSIBILITIES, CHALLENGES

• AVOID DUAL RELATIONSHIPS & CONFLICTING ROLES
  • SEXUAL RELATIONSHIPS WITH CURRENT OR FORMER SUPERVISEE
  • USING A SUPERVISEE AS A RESEARCH PARTICIPANT
  • FRIENDSHIPS/SOCIAL RELATIONSHIPS BETWEEN SUPERVISORS & SUPERVISEES
ETHICAL PRACTICE

• CONFIDENTIALITY – DISCUSS CONFIDENTIALITY – WHAT WILL BE SHARED AND WITH WHOM
  • UNNECESSARY CONVERSATIONS – NEED TO KNOW
  • STORAGE OF RECORDS
  • INFORMED CONSENT & RELEASE OF INFORMATION
  • INFORMING CLIENTS STUDENT IS AN INTERN AND WILL HAVE SUPERVISION
  • DUTY TO WARN
  • DUTY TO REPORT (AGENCY PROCESS)
  • DUTY TO PROTECT (AGENCY PROCESS)
ETHICAL PRACTICE

- DOCUMENTATION OF CLIENT RECORDS
  - ACCURATE & REFLECTS THE SERVICES PROVIDED
  - DATED
  - TIMELY DOCUMENTATION IN RECORDS TO FACILITATE THE DELIVERY OF SERVICES & TO ENSURE CONTINUITY
  - DOCUMENTATION SHOULD PROTECT CLIENT'S PRIVACY & SHOULD ONLY INCLUDE INFORMATION THAT IS DIRECTLY RELEVANT TO THE DELIVERY OF SERVICES
  - SIGNATURE OF STUDENT INTERN AND SUPERVISOR DEPENDING ON POLICY OF AGENCY
  - DOCUMENTATION ON SUPERVISORY LOG & FIELD HOURS
STUDENT – FIELD INSTRUCTOR/TASK SUPERVISOR RELATIONSHIP

• SUPERVISION CAN BE DEMANDING, YET SATISFYING & INSPIRING

• IT IS A JOB THAT TAKES SENSITIVITY, SKILL, COMMON SENSE, COMMITMENT, GOOD SENSE OF HUMOR, INTELLIGENCE

• TEACHING ASPECT OF SUPERVISION

• SUPERVISION IS A WAY TO GIVE BACK TO THE PROFESSION – IT IS ALSO BEING A “GATEKEEPER”
STUDENT-FIELD EDUCATOR INSTRUCTOR/TASK SUPERVISOR RELATIONSHIP

- **THE VICARIOUS LIABILITY DOCTRINE** protects the rights of clients to receive qualified service and the rights of students to receive adequate and competent supervision.

- **THE VICARIOUS RESPONSIBILITY DOCTRINE** does not release students from liability but spreads the responsibility to the supervisor.
STUDENT-FIELD EDUCATOR INSTRUCTOR/TASK SUPERVISOR RELATIONSHIP

- THE VICARIOUS RESPONSIBILITY DOCTRINE ALSO SPREADS RESPONSIBILITY TO THE AGENCY ADMINISTRATION, FIELD STAFF, SCHOOL ADMINISTRATION, OR ANYONE INVOLVED WITH THE STUDENT.

- THE SUPERVISOR IS ULTIMATELY RESPONSIBLE FOR THE WORK THAT IS ASSIGNED TO AND DELEGATED TO STUDENTS.
VICARIOUS LIABILITY

• SUPERVISORS CAN MANAGE VICARIOUS LIABILITY—WHILE INCREASING THE LIKELIHOOD OF A FAVORABLE RULING IN THE EVENT OF A MALPRACTICE ACTION—IN SEVERAL WAYS:
  • CLEARLY DEFINED POLICIES AND EXPECTATIONS;
  • AWARENESS OF HIGH-RISK AREAS;
  • PROVISION OF APPROPRIATE TRAINING AND SUPERVISION

• NASW INSURANCE TRUST
VICARIOUS LIABILITY

• UNDERSTANDING SUPERVISEE STRENGTHS AND WEAKNESSES AS PRACTITIONERS
• DEVELOPING AN ADEQUATE FEEDBACK SYSTEM
• SUPERVISORS KNOWING THEIR OWN RESPONSIBILITIES

• NASW INSURANCE TRUST
ETHICAL PRACTICE & THE LAW

- Legislation establishes minimum standards for consumer protection.
- Legislation is based on “Thou Shalls” & “Thou Shall Not’s”.
- Most ethical decisions are more complicated than “Thou Shall’s”.
- Many courts of law rely upon professional codes of ethics as practice standards.
- The legal context of the social work profession.
LEGAL CONCERNS

- WILL I BE SUED??
  - A GROWING NUMBER OF SOCIAL WORKERS ARE BEING SUED FOR MALPRACTICE
  - MALPRACTICE & PROFESSIONAL NEGLIGENCE FALL UNDER A CATEGORY OF LAW KNOWN AS TORT LAW

- TORT LAW
  - A TORT IS A PRIVATE OR CIVIL WRONG OR INJURY THAT RESULTS FROM ACTIONS OTHER THAN BREACH OF A FORMAL LEGAL CONTRACT & THE COMMISSION OF A CRIME (GARTHWAIT, 2012, P. 157)
MALPRACTICE

- IS A FORM OF NEGLIGENCE THAT OCCURS WHEN A SOCIAL WORKER, OR ANY OTHER PROFESSIONAL, ACTS IN A MANNER INCONSISTENT WITH THAT PROFESSION’S STANDARD OF CARE AND CAUSES HARM TO A CLIENT THROUGH A LACK OF CARE OR SKILL.

- ACTS OF COMMISSION OR OMISSION
LEGAL CONCERNS

- WHETHER A BREACH OF DUTY HAS OCCURRED IS DETERMINED BY MEASURING THE ALLEGEDLY HARMFUL ACT OR OMISSION AGAINST PUBLISHED STANDARDS OF PRACTICE, AGENCY POLICY, & THE PERFORMANCE OF SOCIAL WORKERS IN SIMILAR SETTINGS.

- THE CLIENT’S INJURY MUST BE ONE THAT WOULD NOT HAVE OCCURRED HAD IT NOT BEEN FOR THE SOCIAL WORKER’S NEGLIGENCE.

TO BE SUCCESSFUL IN A LAWSUIT:

• THE PLAINTIFF’S (CLIENT) ATTORNEY MUST PROVE FOUR POINTS:
  
  • THE SOCIAL WORKER HAD A PROFESSIONAL OBLIGATION OR DUTY TO PROVIDE THE PLAINTIFF WITH A CERTAIN LEVEL OF SERVICE, A CERTAIN STANDARD OF CARE, OR A CERTAIN MANNER OF PROFESSIONAL CONDUCT.

  • THE SOCIAL WORKER WAS NEGLIGENT OR DERELICT IN HIS OR HER PROFESSIONAL ROLE BECAUSE HE OR SHE DID NOT LIVE UP TO THIS RECOGNIZED OBLIGATION OR DUTY, STANDARD OF CARE, OR EXPECTED PROFESSIONAL CONDUCT.
TO BE SUCCESSFUL IN A LAWSUIT:

- THE PLAINTIFF **SUFFERED INJURY OR HARM** (E.G., PHYSICAL, MENTAL, EMOTIONAL, OR FINANCIAL) AS A RESULT OF WHAT THE SOCIAL WORKER DID (ACT) OR DID NOT DO (OMISSION) AND THIS ACT OR OMISSION HAD A FORESEEABLE HARMFUL CONSEQUENCE FOR THE PLAINTIFF.

- THE SOCIAL WORKER’S ACT OR OMISSION WAS A DIRECT OR PROXIMATE CAUSE OF THE HARM EXPERIENCED BY THE PLAINTIFF.

(GARTHWAIT, 2012, P. 157)
EVERY TIME THERE IS A LAWSUIT, IT NOT ONLY DAMAGES THE INDIVIDUAL, IT ALSO DAMAGES THE PROFESSION.
VICARIOUS OR INDIRECT LIABILITY

ANYONE CAN BE HELD PARTIALLY ACCOUNTABLE FOR MALPRACTICE ACTIONS (ACTS OF OMISSION OR COMMISSION) OF SUBORDINATES, ASSISTANTS, STUDENTS, SUPERVISEES, OR EVEN COLLEAGUES.
DIRECT LIABILITY

SUPERVISORS MAY BE HELD LIABLE FOR NEGLIGENT SUPERVISORY PRACTICES SUCH AS:

➢ ALLOWING A SUPERVISEE TO PRACTICE OUTSIDE YOUR AND/OR HIS/HER SCOPE OF PRACTICE
➢ NOT PROVIDING CONSISTENT TIME FOR SUPERVISION SESSIONS
➢ LACK OF EMERGENCY COVERAGE AND PROCEDURES
➢ LACK OF SUFFICIENT MONITORING OF SUPERVISEE’S PRACTICE AND/OR DOCUMENTATION
➢ LACK OF CONSISTENT FEEDBACK PRIOR TO EVALUATION
➢ VIOLATION OF PROFESSIONAL BOUNDARIES IN THE SUPERVISORY RELATIONSHIP
STUDENT-FIELD INSTRUCTOR/TASK SUPERVISOR RELATIONSHIP

- Students and field instructors/task supervisors are responsible for protecting clients by ensuring students receive adequate supervision.

- Supervisors are expected to know what their students are doing and to stop inappropriate behavior.

- The supervisor is ultimately responsible for the work assigned.

- To prevent mistakes – field instructors must ensure that supervision occurs and that there is adequate time to become familiar with all of the students' cases.

- Maintaining a log describing the meetings and the cases discussed. Specific advice regarding a case or a situation should be documented. - See more at: [HTTP://WWW.NASWASSURANCE.ORG/HOME/PRACTICE-POINTERS/SUPERVISION/#STHASH.FAN7SMSO.DPUF](HTTP://WWW.NASWASSURANCE.ORG/HOME/PRACTICE-POINTERS/SUPERVISION/#STHASH.FAN7SMSO.DPUF)
STUDENT-FIELD INSTRUCTOR/TASK SUPERVISOR RELATIONSHIP

DO NOT ASSUME THE RESPONSIBILITY FOR A STUDENT IF YOU DO NOT HAVE THE TIME OR RESOURCES TO PERFORM THE TASK WELL.
4 ARENAS THAT CAN SANCTION

- STATE LICENSING BOARD
- NASW ETHICS COMMITTEE
- CRIMINAL COURT
- CIVIL COURT – (MALPRACTICE SUITS)

ONE ACTION CAN BE SANCTIONED BY MORE THAN ONE ARENA
WHEN CLIENTS TEND TO SUED
(NASW)

- DISAPPOINTMENT WITH OUTCOME OF TREATMENT.
- FAILURE TO MAINTAIN & PROTECT CONFIDENTIALITY
- MISREPRESENTATION OF PROFESSIONAL TRAINING, EXPERIENCE, & CREDENTIALS
- BELIEVE THEY HAVE BEEN EXPLOITED OR USED FINANCIALLY, EMOTIONALLY, OR SEXUALLY.
- FAILURE TO REPORT SUSPECTED CHILD OR ELDER ABUSE, NEGLECT OR EXPLOITATION
- HAD A NEGATIVE OUTCOME AND ATTRIBUTE IT TO THE SOCIAL WORKER’S INCOMPETENCE OR NEGLIGENCE.
- TERMINATION OF TREATMENT; ABANDONMENT.
SOME COMMON CAUSES OF MALPRACTICE ACTION

- INCORRECT TREATMENT; INACCURATE DIAGNOSIS OR ASSESSMENT (#1)
- SEXUAL MISCONDUCT (#2)
- FAILURE TO ALERT OTHERS WHEN A CLIENT DISCLOSES INTENT TO HARM SELF OR CAUSING OR FAILING TO PREVENT A SUICIDE (#3)
- FAILURE TO WARN OTHERS WHEN A CLIENT DISCLOSES CLEAR INTENT TO INFlict SERIOUS PHYSICAL HARM ON SOMEONE (#4)
- BREACH OF CLIENT CONFIDENTIALITY (#5)
- FAILURE TO PROVIDE ADEQUATE CARE FOR CLIENTS IN RESIDENTIAL SETTINGS.
- DEFAMATION
RISK MANAGEMENT TIPS
(NASW INSURANCE TRUST)

- Learn the standards of accepted practice.
- Know your limitations.
- Have an attorney you can talk to regularly.
- Develop clear treatment plans with clients.
- Have a routine and consistent consultation and referral procedure.
- Conduct an internal audit of agency/practice.
- Attend in-service staff training.
- Avoid any type of dual relationship with clients & supervisee's.
- Have adequate coverage, back-up and emergency numbers available.
RISK MANAGEMENT TIPS

- Be cautious in using nontraditional therapies and modalities.
- Do not promise cures.
- Recognize high-risk clients from a liability standpoint.
- Keep the well-being and welfare of the client at the forefront of decision-making.
- Treat the client with respect and kindness to avoid a personality conflict and/or lawsuit.
- Explain and obtain necessary release forms.
- Advocate for clients with managed care companies.
- Terminate responsibly with clients.
- Maintain accurate client records.
- Often the single best tool for a social worker’s defense is if it is well-written and accurate.
# UCF & Field Instructor’s Steps to Reduce Risk

## UCF
- UCF Field Orientation
- Pre-Placement Interview with Field Faculty
- UCF Field Manual
- New BSW & MSW Student Orientation
- Expectation of Professional Behavior (BSW & MSW Students Sign)
- Educational Learning Contract
- Mid-Term Evaluation
- Site Visit
- Integrative Field Seminars
- Field Reports

## Agency
- Pre-Placement Interview with Proposed Field Instructor
- Agency Orientation
- Weekly Supervision (Including Learning Styles and Teaching Strategies)
- Documentation (Case, Supervision, Corrective Action Plan)
- Educational Learning Contract
- Mid-Term Evaluation
- Site Visit
- Field Instructor Ongoing Education and Supervision
ADDITIONAL RESOURCES

- NASW ASSURANCE SERVICES HTTP://WWW.NASWASSURANCE.ORG/
  - WEBPAGE ON “UNDERSTANDING RISK MANAGEMENT” – PRACTICE POINTERS & ADDITIONAL RESOURCES
  - LIABILITY INSURANCE INFORMATION
- FLORIDA LAWS & RULES UPDATE THROUGH NASWFL.ORG
  - FLORIDA STATUTES 456 (REGULATION OF PROFESSIONS & OCCUPATIONS) & 491 (CLINICAL, COUNSELING, & PSYCHOTHERAPY SERVICES)
  - FLORIDA ADMINISTRATIVE CODE RULE CHAPTER 64B4
REFERENCES

• NASW Code of Ethics (1996 & 2008) Approved by the Delegate Assembly
• NASW Insurance Trust Best Practice Standards for Supervision
THANK YOU FOR TAKING ON THIS IMPORTANT ROLE! QUESTIONS??