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Ethics Alive! When You Have Ethical Concerns: Initiating NASW's Professional Review Process

by [Allan Barsky](#)

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by Allan Barsky, J.D., MSW, Ph.D.

Editor's Note: This is Part 1 of 2. Read Part 2, on [responding to NASW's Professional Review Process](#).)

Assume that you have concerns about the ethicality of the conduct of another social worker. For instance, a colleague is engaged in a dual relationship (providing counseling to a family member) or a co-worker is providing substandard services attributable to a substance use disorder. What are your ethical obligations to address these concerns, and what is the best way to proceed? This article provides a brief overview of the options for redressing ethical concerns, followed by a more in-depth description of when and how to initiate the National Association of Social Workers (NASW) professional review process. This article provides a relatively brief overview. If you are actually involved in a professional review process, please refer to the specific provisions of the NASW (2012) Procedures for Professional Review manual and instructions for how to file a complaint.

Obligations to Redress Concerns

Under the NASW (2018) Code of Ethics, social workers have a number of obligations to redress concerns about other social workers. Under Standard 2.08(a), for instance, when social workers “have direct knowledge of a social work colleague’s impairment that is due to personal problems, psychosocial distress, substance abuse, or mental health difficulties and that interferes with practice effectiveness,” they should consult with that colleague and assist him/her in taking remedial action. If the colleague does not take adequate steps to address the impairment, Standard 2.08(b) guides social workers to “take action through appropriate channels established by employers, agencies, NASW, licensing and regulatory bodies, and other professional organizations.”

The appropriate channel offered by the NASW for redressing ethical issues (including impairment) is the professional review process. Standards 2.09 and 2.10 have similar provisions for responding to social work colleagues who are acting in an incompetent manner or who have acted in an unethical manner. Thus, when a social worker becomes aware of a colleague’s impairment, incompetence, or unethical behavior, the social worker should first try to address the issue with the colleague. If addressing the issue directly with the colleague is not sufficient, the social worker should consider reporting the situation to the colleague’s employer, licensing body, the NASW, or other professional association. The Code of Ethics provides social workers with discretion in determining the appropriate channel for redressing the concern.

Reporting Colleagues to the NASW

So, how should one decide whether to report a colleague to the NASW through the professional review process (PRP)? Typically, the best way to redress concerns is through the most informal and most collaborative process first. Thus, speaking directly to a colleague or the colleague’s supervisor may be preferable to initiating a formal licensing grievance or a criminal charge. Workers should also consider the gravity of the concerns. For instance, if a social worker has been sexually abusing a client in a foster care group home, then the worker should consider a formal complaint to the police and/or the government agency responsible for foster care to ensure the safety of the client.

According to social work values such as “respect for the dignity and worth of all people,” remember that the primary purpose for reporting a colleague is not to punish or humiliate the colleague, but to redress the situation, thus protecting clients and the public from harm, fostering ethical social work practice, and safeguarding the integrity of the profession (NASW, 2012). The actions of the PRP are designed to be “constructive, corrective, and educative” and to “enhance the quality and effectiveness of

the member's future practice" (NASW, 2012, p. iii).

When determining whether to initiate a request for professional review, social workers should consider what types of situations are handled by the NASW National Ethics Committee:

1. The National Ethics Committee accepts reports against social workers only if they were members of the NASW at the time of the alleged violation. If a social worker breaches the Code of Ethics but was not a member at the time of the alleged violation, the NASW will not accept the case for professional review.
2. The National Ethics Committee accepts cases only if the person initiating the PRP has been directly affected or has direct knowledge of behavior that allegedly constitutes a breach of one or more standards in the Code of Ethics. Thus, if a social worker has direct knowledge that a colleague breached client confidentiality, the worker may initiate the PRP. In many situations, however, the person who has direct knowledge of an ethical breach is the client, not another social worker. In these circumstances, the client, not the social worker, should initiate the PRP. Social workers should not provide clients with "legal advice" about initiating a PRP, but they may provide clients with information about the PRP as well as other avenues to redress concerns. If a social worker has concerns about a colleague's conduct, but the conduct does not specifically breach the Code of Ethics, then the NASW will not accept the complaint.
3. The National Ethics Committee accepts cases only if they rise to the level requiring a PRP. Thus, the situation must be serious enough to require professional review. Consider a colleague who dresses unprofessionally or who sometimes forgets to return calls or messages. The situation could be construed as a breach of the Code of Ethics, but the situation may be relatively minor, not rising to the level requiring a PRP.
4. The National Ethics Committee considers whether the PRP is the right forum for responding to the alleged concerns. Thus, the NASW considers whether the situation should be handled in another forum, such as a licensing body or a within-agency process. Consider a social work intern who has ethical concerns about her field instructor's conduct. The situation might be handled more appropriately by the BSW/MSW program's field director, the agency's program director, or another authority within the agency. Likewise, consider a court-appointed child custody evaluator. Since a judge is overseeing the evaluator, the judge may be the appropriate person to receive concerns about the evaluator.
5. The NASW National Ethics Committee will accept cases only if the alleged violation occurred within the last year. The NASW has an appeals process to extend the period to the past two years, for instance, if the violation only recently came to light or there was another valid reason that the complainant did not initiate the PRP within one year.

When in doubt about whether to initiate the PRP, consult. You may contact the NASW's Office of Ethics and Professional Review to discuss a potential complaint, including whether the complaint meets the NASW's criteria for review. Initially, you may discuss the situation without identifying the colleague or any clients who are involved in the situation.

If you decide to proceed with the complaint, you will need to disclose the name of the social worker. Typically, you should not disclose identifying client information unless you have the client's express written permission. If you decide to proceed with filing a complaint, you may ask for NASW to assign a consultant. The consultant is a trained volunteer who can assist you with the process, from writing the initial request for professional review to preparing you for any hearings or mediation that may take place as a result of the complaint. The consultant is not a legal advisor. The NASW does not allow attorneys to

participate directly in its PRPs.

Writing a Request for Professional Review

When writing a request for professional review, it is vital to follow the NASW's instructions in terms of format and content. Requests for professional review should include the following information:

1. Describe the behavior that indicates a violation of one or more specific sections of the Code of Ethics (up to 3 pages, double spaced, 12-point font, 1-inch margins). For each alleged violation, describe facts or the chronological sequence of events that demonstrate the standard from the Code of Ethics has been violated.
2. Describe the materials and sources of evidence that support the allegations (e.g., a list of witnesses, documents, and direct evidence). Demonstrate the ability to provide direct evidence to support allegations (i.e., not just relying on hearsay). Do not submit the actual documents, as these may be submitted after the case has been accepted for professional review.
3. List other actions taken to redress the matter (e.g., licensing complaints, agency grievances, malpractice lawsuits), and current status of any legal actions related to the complaint.
4. Sign the confidentiality statement (indicating you will not share information about the PRP with others) and statement expressing willingness to testify.

The request for professional review should be written in clear, concise, nonjudgmental language.

When considering whether to initiate a PRP, consider what types of actions the National Ethics Committee can and cannot take. For instance, the National Ethics Committee cannot impose fines, incarcerate, or revoke a license. The National Ethics Committee focuses on corrective actions, for instance, requiring a respondent to obtain further training or supervision, or to refrain from certain types of practice. The National Ethics Committee may suspend or revoke NASW membership; however, in most jurisdictions, social workers may continue to practice social work even if they are not NASW members.

Professional Review Processes: Mediation and Arbitration

Note that most cases accepted for professional review are referred initially to mediation. Some of the more serious cases, such as sexual relations with clients, may be referred directly to a hearing process. When a case is referred to mediation, an NASW-appointed mediator meets with the complainant and respondent, as well as a National Ethics Committee representative whose role is to ensure that the interests of the NASW are considered throughout the mediation. Mediation is a facilitated problem-solving process in which the mediator engages the parties in a confidential discussion of their concerns and helps them negotiate a solution on a consensual basis. If the parties reach agreement, the NASW has a process for monitoring and supporting the parties to follow through on their commitments. If the parties do not reach agreement or do not follow through, the NASW may refer the case to a hearing.

During a hearing process, the NASW appoints a 3-person hearing panel to conduct a confidential hearing that is similar (in some ways) to a court process. The hearing panel receives oral testimony and documentary evidence from the parties, as well as any other witnesses. The hearing does not follow strict legal rules of evidence, and there is no formal cross-examination of witnesses. Hearing panel members may ask questions. Each party may also ask the hearing panel to ask additional questions to the other party or witnesses. Upon conclusion of the hearing, the panel writes a report reviewing the evidence, making findings about any ethical violations, and if violations have been found, indicating what types of corrective actions or sanctions should be made. As noted earlier, the focus is on corrective action,

including how to redress problems, promote ethical practice, and protect clients from harm.

Conclusion

When social workers have ethical concerns about the conduct of colleagues, initiating a PRP is one possible process for redressing them. It is certainly not the most commonly used process. Most ethical concerns are handled with the social worker directly or within the agency context. If a social worker is licensed, some ethical concerns may be handled by the worker's licensing body. Note, however, in most states, the licensing body does not enforce the entire NASW Code of Ethics. It only enforces rules explicitly stated in the licensing laws. Thus, while a licensing body may enforce laws related to confidentiality or informed consent, it may not enforce other provisions in the Code of Ethics, such as prohibitions against racism and other forms of discrimination.

If you take away just one key message from this article, I hope that message is "consult." If you have a concern about a colleague's ethical behavior, you may consult with your supervisor or another trusted social worker. You may also call the NASW's consultation hotline at 800-742-4089.

As professional social workers, we are our brothers' and sisters' keepers. We care about their practice, and we care about the services that their clients are receiving. There are many different approaches to handling concerns about a colleague's conduct. Know the options. Reach out for help. Do the right thing.

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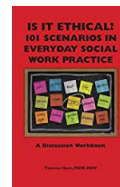


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