Malfeasance in Helping:
A Misguided Approach to Meeting Critical Client Needs

Lucinda Nevarez

Abstract: Social workers are called to work in practice areas that are complex and multilayered and with client systems that present moral and ethical challenges. In these situations, we social workers can find ourselves left to navigate incredibly challenging cases in isolation. Our desire to help may exacerbate the moral and ethical issues that frequently accompany our work, leading practitioners to engage in rule-bending, unethical behavior, professional misconduct, and perhaps even criminal behavior—often with good intentions. While the social work code of ethics offers practitioners guideposts, the true action decisions are ultimately left to the practitioners' professional judgment, leaving room for subjective application of standards of competency and ethics. I outline how intersecting practitioner and systemic factors can converge to create a circumstance ripe with opportunities for lapses in professional conduct. I also explore the influence supervision may have in deterring or preventing these incidences.

Keywords**:** social work, ethics, misconduct, competent practice, practice standards

Social work professionals frequently work with clients and in client systems that are complex and present high needs. Throughout my tenure as a social worker, I worked with clients from vulnerable populations in critical need of services for themselves and their family systems. One of the challenges I encountered in this work was meeting these crucial needs of my clients with limited resources and systemic barriers to support. Given this reality, it was common for me to hear of practitioners bending the rules to access services for their clients. In many of these instances, the rule-bending seemed small, and I perceived it as harmless. However, one case changed my perspective of this practice—suddenly, I was questioning how practitioners navigated the challenges of their work. I wondered if the impact of these smaller incidences of rule-bending could accumulate into a desensitization and result in more egregious acts of misconduct. This experience also led me to have a greater understanding of the consequences that a client may be exposed to because of social workers engaging in unethical behavior or misconduct. Perhaps these issues were not foremost in my mind because the number of social workers that do engage in unethical behavior and misconduct, particularly criminal misconduct, is not as significant as is found in other professions (National Practitioner Data Bank, 2020). However, social work is not immune to practitioner malpractice, and it is imperative to examine what factors might lead a social worker to act in ways inconsistent with the profession's ethical standards—and perhaps even the law.

The ensuing scenario outlines a case I encountered during my practice in which a colleague behaved problematically in what I believe was a misguided effort to meet the critical needs of their client. In this case, the practitioner found themselves addressing the high needs of an undocumented, HIV+ client within a social context that was increasingly hostile toward undocumented immigrants and a system with limited health resources to manage a significant health crisis. All identifying information has been changed to protect those involved.

A Case of Professional Misconduct

Prior to discussing the key factors of this case, it is important to understand how the broader societal context made it more challenging. This case occurred in the mid to late 1990s, where issues of immigration and the global epidemic of HIV/AIDS were converging within the United States. It is estimated that by January 2000, there were seven million unauthorized immigrants living in the U.S. (Warren, 2003), a number which had peaked from 1999 to 2000 (Pew Research Center, 2005). Although rates of unauthorized immigration were increasing in the late 1990s, there still simultaneously existed wide hostility toward immigration policy, immigrant populations, and unauthorized immigrants in particular (Young, 2018). Additionally, in the late 1990s, the U.S. was still in the throes of the HIV/AIDS epidemic. During this time, disparities in HIV infections and deaths were beginning to be stratified by the Centers for Disease Control and Prevention (CDC). The emerging data indicated that African American and Hispanic communities were being hit particularly hard by the disease (U.S. Department of Health & Human Services, 2020). Following a limited initial response to the HIV/AIDS crisis, the CDC began a larger effort at mobilizing to address the ongoing crisis (CDC, 2017). However, because the U.S. was slow to respond to this epidemic, by this time, there was a great deal of misinformation, stereotyping, and outright discrimination directed toward the HIV+ population. Many agencies serving the communities struggling with HIV/AIDS found themselves overwhelmed. I entered this environment determined to apply the advocacy and practice skills I had developed via my social work education.

I was a relatively new practitioner when I was invited to join a well-established agency that provided many programs and outreach services to residents of a large metropolitan city. The agency aimed to build stronger families by teaching life skills necessary to manage health, financial, and relationship challenges. I was hired to join a particular project within the agency that provided support services to individuals who had been diagnosed with HIV/AIDS. These services addressed a variety of client needs, including assistance with acquiring and accessing healthcare services, identifying resources for mental health and other health services, financial resource assistance, and emotional support, among other needs.

Shortly into my tenure with the agency, I was notified that I would be taking over the clients of a former employee. As I worked my way through connecting with my newly assigned clients, most of them spoke highly of my former colleague and seemed pleased with the services their previous social worker had provided them. After contacting these new clients, I felt I would have some large shoes to fill. At the same time, I felt energized; I was now a practicing member of the profession I had long aspired to join.

One particular client transferring to my caseload was in their early 30s and was married with three children. The client had known of their HIV diagnosis for many years. Additionally, they had migrated to the U.S. more than 10 years prior and had been living unauthorized in the U.S. since. The client had been receiving services from our agency for more than a year. They expressed great appreciation for the services they had received through my agency, identifying the services as very helpful to themself and their family.

During my initial meeting with the client, they spoke at length about their needs, their family, and their related interests. The client mentioned how helpful it had been to be able to see a primary care physician on a consistent basis. The client emphasized how these ongoing doctor visits had helped maintain their health and overall well-being; they shared how the benefit of having their medications refilled on a regular schedule meant they had recently been more compliant than at any other time in their disease history. The description of the care the client was receiving was interesting because I knew there were several physicians providing sliding-scale services for clients with HIV, but the waits were usually long for these appointments, doctors' visits were often spread out, and services were frequently over-extended. I asked how it was that the client had been able to manage the cost of a primary care physician with their own practice, given that they had no insurance, were unemployed, and were not authorized to be in the U.S. To my surprise, the client responded that they had "been given a Social Security number" by their previous social worker, who had encouraged them to use that number to apply for medical and other support services for themself and the family. I thought I misunderstood what the client said, or that, surely, I was missing something that would explain the number. Therefore, I asked the client to elaborate on how my former colleague was able to "get them a number," asking if the social worker helped with any applications or materials to acquire some form of U.S. resident benefits. The client responded that they had not worked on any such documentation and shared that the social worker had simply been able to acquire a Social Security number. The previous social worker had assured them that with this number the client would be able to apply for county-level health services and locate a primary care physician.

I was confused and wanted to hear more. I felt certain there must be some misunderstanding that looking at the client's paperwork would clear up. I asked the client if I could see the number they were given. The client showed me a note in the previous case manager's handwriting outlining the telephone numbers for several resources, and at the bottom of the note a number was written in the form of a Social Security number. I thoroughly examined the client's file and was only able to find a medical record number. After an extensive conversation with the client and an in-depth review of the case documentation, it became apparent that the previous social worker had modified the client's medical record number so that it looked like a Social Security number, labeling it "SS#." My immediate thoughts were to try to assess whether perhaps there was some way this might have been an oversight, or perhaps somehow my colleague had managed to acquire such a valuable resource for this client. To clarify if this was a possibility, I continued asking the client questions related to how the number may have manifested. I kept investigating but did not want to entertain the thought that perhaps this number may not be real. I felt that if I acknowledged that potential, I would also have to consider what that meant for my social work colleague and my client. As a relatively new social worker, I assumed ethical purity on the part of all social workers was a given; this experience was not fitting my narrative of social workers.

I thought that perhaps the client and social worker had worked on this collectively, so I asked the client for more details on their collective work with the social worker. The client was adamant that they had not worked with the previous social worker on applying for legal U.S. status. However, the client shared that they had recently independently begun the process of applying

for legal authorization to remain in the U.S. Additionally, the client expressed how helpful it had been to their family to have a number they could use to initiate applications for additional support such as Temporary Assistance to Needy Families and the Supplemental Nutrition Assistance Program.

As our conversation progressed, it became increasingly clear to me that the number given to my client was not an actual Social Security number. I worried about the legal jeopardy my client had been placed in by using the number, but at the same time I was concerned about the amount of upheaval I was about to create for this client and family by pointing this out. Following an extended conversation about how the number arrived to the client, I pointed out that the number appeared to mirror the client's medical record number, and that the validity of the number could be in question. We engaged in a lengthy discussion about the implications of continuing to use the number to access services. The client was overcome with surprise at the possibility that the number was not a real Social Security number and shared immediately that they no longer planned to use the number. Hearing this, I felt a sense of guilt for being part of a group that had potentially exposed this client to harm and consequences. I feared this would affect my client's ability to continue to work with me. I wondered if the trust had been violated beyond repair. We then worked together to identify resources and create a plan to transition to no longer using the number they had been given. Although initially I was concerned about how this disruption would affect my ability to connect with my client, the client was ultimately grateful for my honesty and transparency in pointing out the number and the risks associated with continuing to use it. In contrast to how I thought the client might respond, the client expressed a high level of trust in me and was significantly engaged in the services I provided. As a result, I was able to continue to work closely with the client until the end of my tenure with the agency.

Following the appointment, I returned to my agency and discussed the interaction with the director of the program and a head administrator in the agency. Ultimately, the agency determined the previous social worker had indeed modified the number and presented it to the client as a false Social Security number. The agency worked with their legal department to report the social worker's actions to the appropriate entities, including the state social work licensing board. In the ensuing months, the agency conducted an agency-wide audit and began steps to establishing a more formalized structure for supervision throughout the agency and my program in particular.

Social Workers Navigating Need

For years following this incident, I contemplated what factors could have created a circumstance where such a breach of ethical standards could occur. As a student, I received ample examples of ethical challenges and case scenarios to debate with my classmates. However, as I reflected on the scenarios I assessed as a student, I could not remember any that presented an instance of a social worker engaging in unethical behavior or misconduct. A majority of the scenarios focused on dynamics or issues that *clients* brought to the social work encounter; few, if any, focused on addressing conduct on the part of social work practitioners.

In this circumstance, I believe a confluence of factors converged to contribute to this

misconduct. A primary factor may be the challenging nature of the issues and client systems in which social workers practice. Faced with overwhelming client needs in a system with limited access to resources, practitioners may feel stunted in their ability to help. With this stunted feeling, some may conclude that "working the system" is the only way to be useful. For example, practitioners may direct resources to clients that may not fully qualify for those resources, share information on resources that are about to be made available with clients ahead of time so that they can apply before others, or provide services beyond agency policy to assist the client (giving them gas money, rides, etc.). A social worker may justify a slight bending of rules or even misconduct if they perceive they are helping the client by getting them much-needed services.

Due to the nature of our work, *many* social workers have a prolonged exposure to these discussed high-need, low-resource client systems. Relatedly, social workers evolve in their practice approaches through personal experience and observation. Perhaps the social work practitioner, in this case, was the recipient of social workers bending the rules for their benefit. Perhaps my colleague witnessed senior social workers engaging in similar rule-bending practice behavior, which may have normalized this practice and led to the social worker replicating those actions with their own clients. A social worker exposed to smaller infractions by other practitioners may create an environment where the social worker's own ethical boundaries are permeable and unfixed—a circumstance where so long as the goal is to help a client, ethical (and at times legal) boundaries may be willingly crossed. Social workers may initially engage in smaller incidences of "bending the rules" or "borderline violations" of ethics with plausible deniability—which then lead to more serious breaches of ethics and, ultimately, potentially criminal misconduct. I thought that perhaps it was easier for this colleague to engage in misconduct because there had been previous minor ethical violations.

It is also possible that my colleague believed that the only way to get their clients the resources they desperately needed was to circumvent perceived systemic barriers. My colleague may have felt that in giving the client a Social Security number, they were helping the client in accessing much-needed life-saving medical services and medications in the face of unjust barriers. The worker may have weighed the legal infraction against the possibility of the client's disease progression and thought the more appropriate response was to get the client medical services via whatever means necessary. In these instances, although practitioners are well-intentioned and mean to help their clients, their actions create quandaries that overstep ethical boundaries. Thus, although their efforts were initially to help the client, the practitioner may instead do long-term harm. In the misconduct I observed, there were legal consequences that could have caused great harm to my client, including incarceration and deportation. Additionally, the client was unaware that the number they were given was not legally permitted and was thus engaging in illegal activities unknowingly. This represents not just potential criminal misconduct, but also a particularly egregious practice violation, as the client did not knowingly choose to take criminal action but would almost certainly endure the consequences upon discovery anyway.

Support for Practitioner Competence in Complex Work

An additional factor I believe created an opportunity for this type of misconduct to occur was the

lack of systemic features that would have provided support and guidance for social workers managing highly complicated cases. When faced with a challenging issue or case, social workers are advised to consult the National Association of Social Workers' ([NASW], 2017) Standards of Conduct and Professional Code of Ethics to guide us toward an appropriate response. Although the code of ethics does provide social workers with ethical standards to consider in decision-making, it does not mandate a rank order or hierarchy for how these standards are applied. Rather, the code of ethics relies on the "informed judgement of the individual social worker" to determine which standards to prioritize when making a decision (NASW, 2017, Section 2). This subjective application of the code of ethics creates circumstances in which practitioners may be tasked with responding to a complex case where practice standards may conflict, thus complicating their case further. Because of this subjectivity, it is imperative social work practitioners have resources and support to guide them through decisions that present challenging dynamics.

The 1996 NASW Code of Ethics and Practice Standards—the one in use during this Social Security number case—mandates that social workers in administrative positions provide supervision for social workers; however, there is little guidance for when the practitioner at the administrative level is *not* a social worker, as was the case at my agency. The director from my program came from a different professional background that was not bound by the NASW practice standards. As a result, there was no set supervisory structure for my program or the broader agency. This created a system where practitioners were operating independently with a great deal of autonomy. The lack of a formalized supervision structure created a silo where practitioners were left to develop their own strategies to manage client needs. Many of these practitioners, like me, were developing strategies with limited practice experience to draw from. In conjunction with this lack of supervision, consultation on cases was most frequently conducted via peer consultation. In circumstances where a practitioner had a question or was uncertain how to proceed, we were directed to consult with a peer practitioner—most of whom were social workers, but some with backgrounds in other disciplines. A challenge was that many of these peer social workers had themselves not received supervision or consultation either. Despite this limited practice experience, social workers were left to manage each other.

Studies indicate that supervision may play an important role in socializing new practitioners into the social work field, although availability of supervision in and of itself may not be sufficient to ward off practitioner misconduct (e.g., Berliner, 1989; McCarthy et al., 2020). Much of the benefit of supervision depends on the type of supervision a practitioner receives. For example, studies suggest that supervision can be effective at promoting practitioner skill development, employee retention, and a positive work environment (e.g., Mor Barak, et al., 2009; Carpenter et al., 2013); however, these positive gains are tied to the type of supervision available (Carpenter et al., 2013). Supervision that promotes a shared power base, builds trust, and inspires a perceived competence can encourage the exploration of social work values and ethics and can support practitioners through ethical challenges (McCarthy et al., 2020). In the case I described, the absence of supervision and limited case consultations meant social workers were navigating these incredibly challenging cases in a vacuum. This created a circumstance where agency practitioners were working with little to no support or oversight in how to manage the ethical challenges that accompanied many of our cases.

In 2005, the NASW Standards for Clinical Social Work included a standard mandating access to professional supervision for practitioners in their first five years of practice (Singer, 2008). While this was a positive step forward, in a study of almost 900 social work practitioners sanctioned from 1994 to 2004, Boland-Prom (2009) found that a majority of sanctioned social workers were sanctioned five years or more after receiving their social work license, with the next highest sanctioned group being those that received their license within the previous year. These findings suggest that social work practitioner development as well as supervision should be available and evolve with the social work practitioner throughout their career. Perhaps consistent supervision would have helped my colleague—a well-established practitioner—avoid engaging in misconduct. Similarly, as a relatively new social worker, I would have benefitted from a direct supervisor advising me in navigating and processing this experience. The presence of consistent supervision and training could have helped convert this event into a learning experience; one that would have increased my own practice abilities by highlighting problematic practice behaviors and stressed appropriate practice behaviors in this situation.

Collateral Implications and Prevention

Behavior like my coworker's can negatively influence the working relationship beyond repair, but this harm extends beyond that particular client and that particular social worker. In this case, the previous worker misled the client; based on this experience, the client could have chosen not to trust the agency or any future social worker, including me, and perhaps steered friends and family away from social work resources. This direct, negative result is inconsistent with our ethical guidelines and, beyond basic ethics, may be criminal. Regardless of intent, working from this approach is inconsistent with what social workers are called to do. A key social work task is to help via empowerment to build client capacity to address issues, not to take shortcuts to resolve client problems for them. Also missing when engaging in this type of practice behavior is the opportunity for practitioners to work toward addressing mezzo- and macro-level factors that create or exacerbate the problems our clients are experiencing. In adapting by bending the rules, social workers are not responding to shared broader needs or advocating for resource development. By adapting in this way, social workers may help clients in the short term, but odds are that similar clients in the broader community are having similar needs. Because of this short-sightedness, social workers are missing an opportunity to develop community capacity and rectify mezzo- or macro-level gaps in needed support and resources.

Given current technology and the advancements the social work profession has made in supporting the accessibility of supervision and consultation for practitioners, it is hard to imagine this sort of misconduct occurring today. However, the availability of supervision is in itself not sufficient for preventing social workers from engaging in potentially unethical behavior or misconduct. In social work education and in practice, a primary source of practice development is exposure to fellow practitioners and supervisors who educate and model practice skills and behaviors. If social workers are exposed to supervision that is perceived as both competent and safe, they are more likely to explore the ethics and challenges of the cases they are working on with their supervisors. Alternatively, social work practitioners exposed to unethical behaviors via their supervisors and mentors may adopt these same behaviors, believing that it's "just how things are done." Thus, as social work practitioners must commit to a lifelong pursuit of

educating themselves in ethical approaches to practice areas, so should social work supervisors commit to consistently adding to their knowledge of best practices in supervision.

Conclusion

The case above outlines ethically challenging interactions social workers may experience in their practice. Frequently, these challenges are multilayered, where decisions will have a significant impact on the client's general well-being. One of the greatest strengths of social work is its holistic view of client problems. However, this perspective can be challenging for practitioners trying to address the breadth of issues that clients come to us with. Literature on pro-social rule-breaking suggests that at times workers may break established rules to benefit the organization they work for or for the benefit of a stakeholder of that agency (Dahling et al., 2012). If the same benefit theory is applied to this case, it is possible that the social worker engaged in "rule-breaking," in their perspective, to help achieve the agency's mission of providing much-needed services to a particularly vulnerable community. Social workers want to help, but we cannot allow that drive to blur the boundaries of practice standards and ethics. Although a social worker may engage in misconduct in an effort to help their client, it is imperative they understand the greater liability they are bringing upon that client by doing so. In this case, the previous worker's actions placed the client at risk of experiencing legal consequences, negative health implications, and familial upheaval, which, ironically, were the very issues for which the client was initially referred to the social worker. More research is needed to explore the circumstances under which social workers may engage in rule-bending or breaking, as well as the association of those actions with more serious incidents of misconduct.

Social work areas of practice will continue to represent complex and multilayered issues. While I do not condone the actions of my former colleague, I believe that their actions did stem from a misguided desire to help my client. However, I wish my former colleague had the opportunity to witness with me the client's response to their actions. Had my former colleague seen the client's concern and fear of the consequences created by their misconduct, they would have—hopefully—reconsidered their approach to this case and others like it.

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***About the Author*:** Lucinda Nevarez, PhD is Associate Professor, College for Health, Community, and Policy, Department of Social Work, The University of Texas at San Antonio, San Antonio, Texas (210-458-2306, lucinda.nevarez@utsa.edu).