

"Houston, we have a problem"

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Many of us remember the 1995 *Apollo 13* film where Tom Hanks playing the part of Captain James Lovell, says "Houston, we have a problem" to report a major technical fault in the electrical system of one of the Service Module's oxygen tanks that could have led to the inability of the crew to return to earth. Lovell's comment was such an understatement of the seriousness of the situation that it has become a small joke nowadays to say the phrase to someone when there is a problem. But if you go with the original meaning I think we could say today "Social Work, we have a problem" - we have a major fault with our profession. The problem is social workers who mismanage countertransference by involvement in sexual misconduct with their clients.

Our code of ethics explicitly prohibits sexual involvement with clients.

3. RELATIONSHIPS WITH CLIENTS

b) Clinical social workers do not, under any circumstances, engage in romantic or sexual contact with either current or former clients. Clinical social workers are also mindful of how their relationship with the family and/or friends of their clients might affect their work with the client. Consequently, they also avoid romantic or sexual involvements with members of the client's family, or with others with whom the client has a close, personal relationship. (CSWA)

Also we teach in our BSW and MSW programs the need to maintain professional boundaries and appropriately manage countertransference and we have continuing education programs that emphasize this ethical boundary. Yet we find the following characteristics concerning mismanagement of countertransference involving sexual misconduct by social workers:

1. Sexual misconduct is the most frequent complaint type for the NASW Committee on Inquiry (NASW News 1995).
2. Sexual misconduct is the second most frequent cause of action in malpractice suits against social workers (Reamer 1995- Abbott 2012).
3. Sexual misconduct is the most frequent type of complaint to the Virginia Board of Social Work (Lynch 2012).
4. Sexual Misconduct is reported in the professional literature to occur at a rate of 10% of mental health providers when they are asked in self report surveys to indicate if they have committed sexual misconduct with clients (Haspel, Jorgenson, Wincze & Parsons, 1997).
5. Sexual misconduct by therapist committed on clients is criminal behavior in 23 states. Many times it is a felony and sometimes the law requires the therapist name to be placed on the sex offender registry of that state. (Schoner 2011).
6. Sexual misconduct assessment and treatment is available from just four programs in the US. These programs are explicitly designed to assess and treat healthcare practitioners who have committed mismanagement of countertransference involving sexual misconduct (Lynch 2012).

As social workers our Code of Ethics assigns a duty to professional social workers to "...correct unethical or incompetent behavior by colleagues..." as noted in section IV, d.

IV. RELATIONSHIPS WITH COLLEAGUES

d) Clinical social workers carry out their responsibility to both clients and the profession by maintaining high standards of practice within the professional community. They take appropriate measures to discourage, prevent, expose, and correct unethical or incompetent behavior by colleagues, and also assist and defend colleagues believed to be unjustly charged with such conduct. They discourage the practice of clinical social work by those who fail to meet accepted standards of training and experience, or who are practicing outside of their area of competence.

To examine this correction of unethical behavior of colleagues I want to give some detail about the six characteristics listed above:

1. Sexual misconduct is the most frequent complaint type for the NASW Committee on Inquiry.

NASW conducted a study "Overview of a Decade of Adjudication" which reviewed nearly one thousand "Committee on Inquiry" closed cases and on record at the NASW's national office. The primary substantiated Code of Ethics violation (29.2%) was "The social worker should under no circumstances engage in sexual activities with clients" (Dumez, 1995).

2. Sexual misconduct is the second most frequent cause of action in malpractice suits against social workers.

Frederick Reamer, one of the foremost experts on social work ethics, was allowed rare access to the proprietary data of the American Professional Agency. This is the insurance carrier for NASW malpractice insurance. He examined the "causes of action" - that is the reason or basis for the malpractice suits against social workers. He found the top 5 were the following:

CAUSE OF ACTION	N	%	% OF DOLLARS PAID	COST INDEX
1. Incorrect treatment	118	18.61 %	19.22 %	103
2. Sexual Impropriety	117	18.45 %	41.34 %	224
3. Breach of confidence/privacy	55	8.65 %	4.21 %	49
4. Diagnosis, failure to or incorrect	36	5.68 %	5.18 %	91
5. Miscellaneous	33	5.21 %	4142 %	85

Sexual misconduct cases were the 2nd most frequent type of malpractice case but accounted for 41.34 % of the dollars paid out for claims. This experience was similar for all of the insurance carriers who insured behavioral science healthcare professionals.

In the 1990's the answer the insurance companies developed to deal with this was to change the terms of the policy to limit the liability of the insurance company to \$25, 000 when the cause of action involved sexual misconduct. This has reduced the amount of money the insurance companies pay out in claims for behavioral science healthcare professions. So the insurance company managed the financial cost of the sexual misconduct claims but the problem really did not go away for the profession.

At the NASW VA annual conference in March 2012, Dr. Ann Abbott, Chair, NASW Insurance Trust Fund, presented a workshop sponsored by the NASW Assurance Services titled "Ethical Practice: A Social Worker's Best Defense Against Malpractice." Dr. Abbott confirmed that for Individual claims-made policies between 1990 and 2010 the second highest cause of action remains sexual misconduct. For the Agency Occurrence policies sexual misconduct is the

number one cause of action. So the NASW data document sexual misconduct as a major problem for our profession from the 1980's to 2010.

3. Sexual misconduct is the most frequent type of complaint to the Virginia Board of Social Work

I have reviewed the Case Decisions section of the VBSW web site. I examined cases between January 1, 1992 and December 31, 2011. There are 170 entries for that time period. Upon closer examination it is revealed that this does not mean 170 different social workers. There are several entries for each social worker who is the subject of a board action. Each time the VBSW takes an action of public record there is an entry made on this list. The actions include;

1. Notice of Hearing,
2. Board Order with Conclusions of Law and Findings of fact,
3. Any changes to any Board Order
4. Return of License to status in good standing.

So the 170 entries translate into 88 social workers that were the subject of VBSW actions. The review of the cases is outlined below:

**REVIEW OF
VIRGINIA BOARD OF SOCIAL WORK DISCIPLINE CASES
FROM 1992 TO 2011
THAT RESULTED IN A BOARD ORDER**

Some discipline cases are not typical professional misconduct but administrative as listed below:

NUMBER OF CASES DEALING WITH LICENSURE RENEWAL PROBLEMS (Usually these had to do with licensees not completing the correct number of continuing education hours to renew license)	30
NUMBER OF CASES WITH INCOMPLETE DATA TO DETERMINE DISCIPLINE ISSUE	3

When just looking at differentiating the sexual misconduct cases from no sexual misconduct cases these are the numbers:

NUMBER OF CASES DEALING WITH MISMANAGEMENT OF COUNTERTRANSFERENCE INVOLVING SEXUAL MISCONDUCT	18
NUMBER OF CASES WITH NO SEXUAL MISCONDUCT:	70
TOTAL NUMBER OF DISCIPLINE CASES OF THE VIRGINIA BOARD OF SOCIAL WORK FROM 1992 TO 2011	88

ANALYSIS:

The license renewal cases are primarily an administrative matter and minor infraction. If you remove those 30 cases from the total and the 3 cases that had incomplete data then that leaves 55 cases that involve some type of professional misconduct. The highest frequency type of discipline case is the mismanagement of countertransference with 18. That means that **33% of the VBSW discipline cases are mismanagement of countertransference involving sexual misconduct type cases.**

4. Sexual Misconduct is reported in the professional literature to occur at a rate of 10% of mental health providers when they are asked in self report surveys to indicate if they have committed sexual misconduct with clients

"Nationwide studies have revealed that somewhere between 7% and 15% of psychotherapist engage in sexual contact with their patients..." (Strasburger, Jorgenson & Randles, 1991, p. 859). What is clear from the literature is consistent agreement that sexual involvement with clients causes harm. For example "Subsequent treating therapist report that 90% of patients who engage in sexual relationships with a therapist suffer harm as a result of the contact" (Bouhoutosos et al., 1983; Gartell et al., 1987; Pope & Vetter, 1991- as cited in Haspel, Jorgenson, Wincze & Parsons, 1997, p. 64). The types of harm included "...psychiatric hospitalization (11%), attempted suicide (14%), and successful suicide (1%)...feeling of ambivalence, guilt, emptiness, isolation, sexual confusion, impaired ability to trust, boundary and role confusion, emotional lability, suppressed rage, increased suicidal risk and cognitive dysfunction" (as cited in Haspel et al., 1997, p. 64).

5. Sexual misconduct by therapist committed on clients is criminal behavior in 23 states. Many times it is a felony and sometimes the law requires the therapist name to be placed on the sex offender registry of that state.

In an article in "The Hook" newspaper in Charlottesville VA an April 4 2011 story by Courtney Stuart titled "**Broken trust: Sex allegations against therapist prompt investigation**" she quoted Dr. Gary Schoener about the status of criminalization of sexual misconduct by therapist as follows:

Illegal or just unethical?

Even if it's widely accepted that therapists shouldn't have sexual contact with their patients, should it be illegal? Clinical psychologist Gary Schoener says yes. "It's criminal sexual conduct," says Schoener, a nationally renowned expert in therapy sexual abuse who notes that 23 states already have laws on the books, and 22 make it a felony. "It's rape, and the reason is the nature of the relationship," says Schoener. "The ability to manipulate is extraordinary. They know your secrets." He says the emotional intimacy is way too deep and the power differential way too lopsided to portray it as two consenting adults. "You can't have valid consent," says Schoener, "because of the distortion in the mind of the client through transference."

As for any notion that only "weak" people can be manipulated, Schoener recalls a case in which the legal counsel for a Fortune 500 company was frequently excusing himself from important meetings to call his female therapist, with whom he was having sex. "He got to the point where he was getting advice from her about what to tell the company's executives," says Schoener, who says he has also assisted corporate bosses and judges who've been victimized. "These are people who are high-powered in the rest of their lives," he says, "but that doesn't mean that in that relationship you can't be controlled."

6. Sexual misconduct assessment and treatment is available from just four programs in the US. These programs are explicitly designed to assess and treat healthcare practitioners who have committed mismanagement of countertransference involving sexual misconduct.

With such clear documentation of the problem of mismanagement of countertransference involving sexual misconduct by therapist it is surprising there are not more therapeutic programs available. A recent search found only four in the country that are targeted towards this specific problem. They are:

1. PACE Program: University of California San Diego, Professional Boundaries Program
2. ACUMEN Assessments Inc. in Lawrence, Kansas
3. Walk In Counseling Center, Consultation and Training Institute, Minneapolis, Minnesota.
4. Behavioral Medicine Institute of Atlanta, Georgia, Professional Sexual Misconduct program.

Social Work we do have a problem. We have had the problem of social worker's mismanaging countertransference by involvement in sexual misconduct with their clients for many years. It long past due for the social work profession to take action to address this problem. If you are as concerned about this issue as I am inviting you to let the VSCSW know your feelings and support VSCSW legislative goals to deal with this issue

REFERENCES

Clinical Social Work Association Code of Ethics, *Revised 1997. This Code of Ethics was prepared by the Professional Standards Committee of the Clinical Social Work Federation and adopted by the Board of the Federation in 1997. The Code was reviewed by the Professional Standards Committee of the Clinical Social Work Association in July of 2006 and found to still be an accurate statement of the ethical principles governing the clinical social work profession and the professional conduct of the members of that profession.*

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