

Chapter 5

CONFLICTS OF INTEREST

Conflicts of interest occur when a worker's needs or interests threaten to take precedence over those of the client or otherwise impede the practitioner's ability to carry out his or her professional responsibilities. For instance, a worker who is hired to develop housing for ex-convicts returning to the community may experience a conflict of interest when one of the homes is targeted for her neighborhood. Conflicts can also occur when the worker's loyalties to clients are split in such a way that upholding the interests of one client would disadvantage another. Difficult situations arise in family therapy when the interests of the children may be at odds with those of the parents, and the worker owes loyalty to the entire family.

Conflicts of interest can give rise to a loss of professional objectivity and compromises in professional judgment (Fisher, 2003). As discussed in chapter 2, accepting a gift from a client may be clinically and ethically sound, depending on contextual factors, or it may create a conflict for the social worker, who is now reluctant to make appropriate therapeutic demands of the client or reinforce agency rules, because accepting the gift has undermined the worker's ability to carry out his or her responsibilities. When there are personal or financial stakes for the worker, other conflicts of interest can occur such as receiving commissions from the sale of books or vitamin supplements that are recommended to clients, or when a researcher has a stake in a treatment that is being investigated and skews findings to obscure the treatment. Conflicts can also occur when loyalty to one's employer (and the need for a job) conflicts with the best interests of the client, with one's professional expertise, or with one's ethical obligations.

Examples of ethical tenets on conflicts of interest include

- "Social workers should not take unfair advantage of any professional relationship or exploit others to further their personal, religious, political, or business interests" (NASW, 1999, 1.06a).

UPHOLDING THE STANDARD

- “Social workers should be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. Social workers should inform clients when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the clients’ interests primary and protects clients’ interests to the greatest extent possible. In some cases, protecting clients’ interests may require termination of the professional relationship with proper referral of the client” (NASW, 1999, 1.06a).

The code clearly describes the variety of ways the worker’s interests can intersect with the client’s interests and places responsibility on the professional to detect and address potentially compromising situations. Recent political scandals have called attention to the ethical imperative of avoiding conflicts of interest. Even if it is legal for politicians to accept contributions or sports tickets from groups they regulate, these are ethically troubling practices. The rejoinder “I would have supported that legislation anyway” doesn’t remove the cloud of suspicion that the support was facilitated by the gift. The cumulative result of such practices is an erosion of public trust in the individuals involved and the professions they represent.

UPHOLDING THE STANDARD

Mountain Vista Assisted Living is run by a for-profit corporation that is intent on generating goodwill and referrals for its programs. Iris works on the geriatric unit at the local hospital and thus does extensive business with the area nursing homes. She is impressed with Mountain Vista’s services. Though its fees are much higher than those of other facilities in the region, she suggests it to patients and their families as one of several options to consider.

Last year at Christmastime, Mountain Vista sent her a large fruit basket with a note thanking her for her referrals. Iris is accustomed to getting office supplies, lunches, and coffee breaks from the various pharmaceutical companies that do business with the hospital, so she thought nothing of accepting the basket and sharing it with the workers on her unit. This year, when the holidays rolled around, Mountain Vista sent Iris a gift certificate for \$100 to the local mall. Iris did not want Mountain

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Vista, her colleagues, her patients, or staff at other nursing homes to think that she practiced favoritism toward Mountain Vista because of its generous rewards. Nor did she want the gift from them to put her in a bind if for some reason she needed to stop her referrals or confront them in some way in the future. She returned the gift card to Mountain Vista with a note thanking them for their thoughtfulness, but noting that giving clients referrals is part of her job and that it would be improper to take gifts for doing so.

Iris exercised a good deal of self-restraint in returning the facility's gift. It would have been easy to rationalize that her hard work and insufficient pay warrant a little extra recognition now and then. She might be confident in her ability to resist any influence Mountain Vista seeks to exert with its gift and argue that as long as her practices are sound she shouldn't care what others think. Or she may assume that no one will find out about the gift and take it, reasoning that it is easier to ask forgiveness than permission.

However, taking it might not pass the smell and publicity tests with her colleagues and patients. Not being transparent about the gift further raises suspicions that Iris knew that it was wrong to accept it. And perceptions matter. Iris is in a position of authority, and she is a representative of her profession and her organization. The acceptance of a gift from a community agency reflects on those entities as well as Iris herself.

Some might question drawing the line at the gift certificate. Because she had accepted fruit baskets in the past, perhaps Mountain Vista believed Iris was comfortable with such transactions. Why does a gift certificate create a conflict of interest when a fruit basket doesn't? Depending on the fruit basket, price may be a differentiating factor. However, this might cause Iris to rethink her habit of accepting the fruit baskets. Even though she shared it with the unit rather than keeping it for her personal use, Mountain Vista probably does not know that, hence the current gift. It would be wise for her to discuss the various gifts in supervision to determine any explicit policy or guidelines that might help to differentiate among the various gifts that unit personnel receive. It also puts on the record the fact that the gift was received and returned.

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Iris's attention to process in declining the gift is also noteworthy. In returning the gift, she expressed appreciation for the gesture and avoided condemning Mountain Vista or impugning their motives. However, she set a clear boundary regarding the appropriateness of such gifts in the future.

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Andrew is the administrator at a pioneering multiservice center that receives state funds to provide a continuum of services to children with emotional and behavioral problems. Because of the funding structure, any resources Andrew saves by moving a child to a less intensive, less expensive service create additional funds for services for those who need them (and for the agency's reserves). Having done a good deal of research in personnel management and staff retention, Andrew has come to believe that innovative compensation systems lead to better employee morale and greater efficiency and productivity. Therefore he has instituted a compensation system whereby any staff member who places a child in a less restrictive setting in less than three days receives a \$200 gift certificate to the local mall or the restaurant of his or her choice. Some high performers under this system receive such a bonus for almost all of their cases.

Andrew's fellow agency directors question this system. They are concerned that it provides an incentive for premature discharges and shoddy placements. They suspect that some workers encourage hospitalizations on the front end so they can get credit for more discharges, and that others avoid high-need clients, because their conditions preclude successful attainment of the bonus. Andrew notes that the gift certificates cost a fraction of the money saved by reduced hospitalizations and that less restrictive settings are healthier for the clients themselves.

The premises underlying Andrew's compensation system are not unusual or inherently unethical. Performance-based compensation is a common feature of many workplaces. Bonuses, commissions, and profit- or gain-sharing arrangements base varying proportions of workers' pay on efficiency or productivity targets. Managed care systems are predicated on rewarding providers and users of care for the judicious

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use of services. Cost reductions resulting from the elimination of unnecessary service usage can conserve scarce resources for other uses. Such incentive systems can help encourage productivity and reward excellence in meeting organization expectations.

The danger, as Andrew's critics note, is in the behaviors that are rewarded. The incentive system must be aligned with the agency's mission and goals so that the proper activities are reinforced. If the agency's goal is to provide the best possible care for children, then that should be the standard by which workers are rewarded. To distribute rewards based on expediency, or to give it improper weight, is to depart from the primary mission of caring for children.

Improper specification of expectations can lead workers to cut corners in order to meet performance targets to qualify for financial rewards. Sometimes these systems can lead to fraudulent practices, as Sears learned when it rewarded its auto mechanics for their automotive parts sales. The unintended consequence was that thousands of customers purchased parts they did not need (Halverson, 1992). In Andrew's case, the consequences of a poorly conceived reward structure will be played out in the lives of children who are already vulnerable. While Andrew may believe he can rely on the integrity of his workforce, money, even in the form of gift certificates, can motivate inappropriate behavior as well as desired behavior.

It does not appear that Andrew has built into his system the necessary checks and balances to ensure that it is not compromised by financial conflicts of interest. Utilization reviews would help identify troubling patterns of admissions and discharges. Quality assurance reviews could examine randomly selected cases to ensure that their discharges were appropriate and made to suitable settings. A system of penalties could be instituted for adverse findings. Additional rewards could be employed for work on complex cases or hard-to-place clients, so that the level of difficulty is factored into the compensation schema.

If the revamped compensation system seems difficult or costly to administer, that is because it is. A simple single-outcome system cannot take into account the complex tasks of social work in the same way it might effectively reward car sales. A more sophisticated system is fairer for employees and safer for clients. Perhaps simply having it in place

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will deter workers who are inclined to put their well-being ahead of their clients'.

**RESOLVING DILEMMAS IN CONFLICTS OF INTEREST:
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Ann and Alex Rawlings sought counseling from Joanne Williams for two years as they tried to work on their marital discord and their disagreements about how best to discipline their two sons. During treatment, Joanne perceived that Alex's parenting style was unnecessarily harsh, especially when contrasted with Ann's nurturing, supportive style. Despite their best efforts, the couple recently decided to divorce and ceased sessions with Joanne, refusing to attend a termination session. Today Joanne received a subpoena from Ann's attorney requesting her records and testimony for the child custody proceedings, particularly those concerning Ann's suitability over Alex as the custodial parent.

As noted earlier in the chapter, some ethical dilemmas arise when the interests of clients are at odds with those of the worker. In other cases, dilemmas pit the interests of clients against each other. Such is the case with the Rawlings, who both began service as Joanne's clients. Now Ann's request puts Joanne in the position of acting in favor of one client at the expense of the other. Without a waiver of confidentiality from Alex, Joanne would be violating his privacy, ostensibly for Ann's benefit. A complicating factor is Joanne's opinion that Ann's case has merit. If she declines to take a partisan role in their dispute, it will mean remaining silent about her substantive concerns in the case.

Who Can Be a Resource to Joanne?

Triangulation of the therapist between parties in custody disputes represents a growing area of malpractice risk for psychologists and social workers ("Practice Basics," 2005). Therefore one of Joanne's first calls should be to her attorney for advice about how to proceed. This consultation should not only help her weigh her choices but also offer procedural guidance so that whatever course she chooses is done in the proper manner. For example, should she communicate with Ann or Ann's attorney about the subpoena, explaining the problem it presents

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and her responsibilities to Alex as her client? What notification, if any, should Joanne provide to Alex?

With or without legal counsel, there are several other steps Joanne should take. She should consult the privilege statutes in her state, which may expressly prohibit disclosure of confidential material in divorces and related actions unless compelled by a judge. Joanne could cite the statute in refusing to comply with the subpoena.

As in other cases in this book, Joanne will find consultation with colleagues and ethical and practice standards helpful in sorting out her options and generating alternatives (Smith, 2003). She should also review the informed consent procedures and documents she used at the outset of the Rawlings' treatment. What was their understanding about confidentiality and the stance she would take in any actions they might take against each other? A clearly specified policy will provide Joanne guidance in responding to Ann's demand for information. For example, some clinicians state at the outset of conjoint work that the focus of service is on the relationship and on the couple, not the pair as two individuals. The clinician then clarifies his or her intent as bipartisan, in that he or she will address the issues observed rather than taking sides in the couple's disputes. Some practitioners may go further and specify that they will not serve in an adversarial capacity for or against either partner. Informed consent procedures also address information sharing, for example, stating that the clinician will not keep secrets from one party on behalf of the other. Thus, individual communications with the therapist can be shared freely with the other member of the client system. If Joanne had a well-founded informed consent procedure and followed it in her treatment of the Rawlings, she can reference it and provide documentation about it in her communications with Ann and her attorney.

What Are Joanne's Options?

Joanne essentially has two options. She can comply with the subpoena, or she can refuse to comply. Within these two contrasting alternatives there are several variations in substance and process. For example, if she decides to comply, she must decide whether she will seek to limit the disclosure required (to records over verbal testimony, for example). She must also decide what she will tell Alex about her deci-

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sion and what her stance will be if his legal team subpoenas her for their cause.

If she decides not to comply, will she urge Ann and the attorney to rescind the subpoena, or will she take other steps resist it? What basis will she use for declining? Will she simply refuse to participate, citing legal, ethical, or informed consent provisions, or will she try to broker a middle ground, for example, encouraging the court to assign a custody evaluation to an impartial clinician hired for that specific task?

When Has Joanne Faced Similar Dilemmas?

Two issues are central to this dilemma. One involves neutrality in serving multiperson system, such as groups, couples, and families. The second involves containment when the clinician possesses troubling or unsettling information. Even if Joanne has never before been subpoenaed in a client dispute, she has likely faced the underlying issues in the case, and her position on those will shape her response this time. Let's examine them each in turn.

A crucial element of professional development involves addressing the reality of the worker's partiality for some clients over others. While affinity for particular clients may create difficulties in a caseload, it leads to particular tension when differential connections exist within a client system. Partiality can come from a variety of sources. Countertransference can lead the clinician to identify more strongly with some individuals over others, or to have negative reactions to particular clients. The research on clinician attraction to clients indicates an array of sources, including the client's physical attractiveness, intellectual stimulation, similarity in life experiences and interests, and motivation for treatment (Fisher, 2004; Ladany, O'Brien, Hill, Melincoff, Knox, & Petersen, 1997; Nickell, Hecker, Ray, & Berkick, 1995). One's affinity for particular clients may be linked to positive therapeutic attributes such as enthusiasm, warmth, and increased empathy. The clinician may be more invested, caring, and attentive to the client, and more willing to go the extra mile for the client's success. On the other hand, such partiality may blind the worker to the client's needs and difficulties and may hinder the worker from carrying out his or her professional responsibilities. Taken to the extreme, affinity may lead to boundary transgressions, including harmful dual relationships

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and sexual impropriety. Within client systems, partiality may lead to feelings of rejection, anger, and confusion on the part of the nonfavored client(s). It may exacerbate existing fissures within families and couples, and it may irreparably undermine the clinician's effectiveness in the treatment process.

Joanne should reflect on her work with the Rawlings and her sense that Ann is the more suitable parent of the two. On what does she base that conclusion? Is Alex an ineffective or harmful parent, or simply one whose style is different from the type Joanne favors? In taking stock of her treatment of them, Joanne should consider whether her partiality may have played a role in their decision to discontinue treatment and in Ann's belief that Joanne will support her bid for custody. This reflection will require Joanne to examine her assumptions about their suitability as parents and her responsibility for testifying about the custody matter. The reflections will also help Joanne to refine her practices in the future, should she find that partiality played a negative role in their care.

Beyond reexamining the Rawlings' case, Joanne should consider other cases where she has felt an affinity for one member of a client system over others. How has she managed the helping relationship in light of that connection? Has it led her to make decisions that favor the client she preferred, or conversely, to rule in favor of the less favored client in an attempt to compensate for the slight? In that our decisions build on our past history, these past experiences will increase Joanne's understanding of her inclinations in the current dilemma.

The second issue in this dilemma involves her sense that Alex is the less desirable parent. Joanne is being asked to share her assessment of Alex's suitability as a parent when that was not the focus of treatment. Is it fair or appropriate to testify as to her impressions of his parenting when she has received that information secondarily in the context of her work with the couple on their relationship? Has she seen Ann and Alex in interactions with their children? When parenting issues were discussed in therapy, were the clients aware that Joanne might ultimately be passing judgment on their respective fitness as parents? These questions are intended to assess the soundness of Joanne's assessment that Ann's parenting is preferable to Alex's.

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In addition to examining the rationale for this conclusion, Joanne must also look at situations in the past where she has had to contain information or opinions that she is not at liberty to share. This is a common phenomenon in clinical practice. Clients may, for example, disclose troubling fantasies; reveal past crimes or describe disturbing behaviors, such as driving while intoxicated; or report taking jobs or positions for which the clinician feels they are patently ill suited. In these and similar scenarios, the social worker may wish that he or she could speak up, and tell someone, when practicalities, ethics, and roles require that the work share his or her concerns only with the client or in the confidence of supervision, and not with an outside party. Joanne's temptation to comply with the subpoena stems in part from her sense that Ann's claim has merit. However, as in other situations requiring containment, that apprehension is not an adequate justification for breaking Alex's confidentiality. Joanne may find, in reflecting on other disquieting experiences, that the tools she used to manage those dilemmas are appropriate for this case as well.

Where Do Ethical and Clinical Guidelines Fit with Joanne's Decision Making?

At least two rules are embedded in the option to comply with the subpoena to testify for Ann in the custody dispute: that professionals are obligated to render assessments in cases affecting their clients, even if those opinions are based on confidential information and may be detrimental to the client, and that social workers should comply with subpoenas. Two rules are also reflected in the option to resist the subpoena: that professionals should always maintain the privacy of material received in confidence, and that professionals should not violate the trust of their clients.

In a deontological framework, what would be the implication of transforming these rules into universal laws? Clearly, social workers should behave lawfully and comply with subpoenas, maintain privacy, and be trustworthy, though in ethical practice, professionals may find exceptions to these rules in upholding other goods, such as public safety or client well-being. We might be comfortable with them as guiding principles, but not without exceptions.

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In contrast, the rule permitting social workers to speak up, even against the client's interests, is problematic as a universal principle, though there may be times when the social worker might rightfully do so. To create a universal law that would allow professionals to freely share their impressions without the affected client's permission would undermine the basis on which the helping relationship is grounded. For that reason, professional ethics permit such disclosures only in extreme circumstances to avoid greater harms, such as injury or death. If Joanne believed Alex to be a harmful parent, she should have used mechanisms such as a child protective service report and/or referral for services to address the problem. If he is not harmful, but merely less appealing to Joanne as a parent than Ann, she has little basis on which to enter into the custody dispute.

Using a utilitarian position, we might envision numerous consequences of Joanne's two choices. Should she comply with the subpoena, she might influence the custody process in favor of Ann, which *might* ultimately be a favorable outcome for the children if her assessment is well founded. If she is wrong in her impressions of Ann and Alex's relative abilities as parents, her involvement might result in poor outcomes for the children and the parents. Her testimony would probably distress Alex, and we can envision numerous deleterious consequences from that, including distrust in the therapeutic process, a sense of betrayal, and perhaps even a lawsuit or licensure action for breach of privacy. Another result of Joanne taking a partisan role in the case is that her participation adds to the fissures in the family rather than helping to create a constructive outcome for all concerned.

If Ann fails to respond to the subpoena, she could be held in contempt of court. If she responds but refuses to testify, the result may be that her clinical observations are kept out of the custody decision-making process when they might have had bearing on the case. Her refusal to participate might anger Ann, resulting in attempts to compel her testimony or retaliation in the form of negative comments or a complaint to Joanne's regulatory board. If Joanne argues for an independent clinician to do a custody evaluation and that process is in some way flawed, the children may be harmed by a poor placement or parenting arrangement.

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Of these outcomes, which is the most troubling? While either party in conjoint treatment or a custody matter may lash out against the professional, Joanne is on safer ethical ground protecting her clients' confidentiality than breaching it. This is not to say that a complaint may not be filed, only that Joanne's actions in maintaining Alex's privacy are in keeping with the standards of the profession, and abridging it is not. Joanne's apprehensions about Alex as a parent have to take a backseat to her fiduciary responsibility to him and other clients who must trust her discretion. Likewise, Joanne must trust that an impartial evaluation focused specifically on the question of custody may yield a more thorough and accurate appraisal of both parents than her impressions gleaned secondarily from couple's treatment.

Both personal and professional values are at play in this case. The social work value of integrity speaks to Joanne's responsibility to treat both members of this client system in an honest, fair, and trustworthy manner. In practice, that would mean adhering to commitments she made about confidentiality, impartiality, and her intentions in the treatment process. The value would also seem to require her to be forthright about her intentions, and inform Ann and Alex about her response to the subpoena.

Joanne's personal values and life experiences no doubt play a role in the case. Among other things, those may lead her to favor a warmer, more maternal style of parenting over a more aloof, directive style. They may bias her in favor of granting custody to mothers. Her values may also make her responsive to authority in such a way that she'd be unlikely to question the validity of the subpoena. Hopefully, supervision and self-awareness have sensitized Joanne to these preferences and qualities, and as a result she has developed strategies to manage their impact on her work. While these values may have a useful place in some activities, such as follow-through and client advocacy, in this case they may lead her to reach poorly founded conclusions in the custody matter and disadvantage her client Alex as a result of her biases.

The standards in the NASW *Code of Ethics* provide guidance on avoiding conflicts of interest throughout the helping process.

- "When social workers provide services to two or more people who have a relationship with each other (for example, couples,

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family members), social workers should clarify with all parties which individuals will be considered clients and the nature of social workers' professional obligations to the various individuals who are receiving services. Social workers who anticipate a conflict of interest among the individuals receiving services or who anticipate having to perform in potentially conflicting roles (for example, when a social worker is asked to testify in a child custody dispute or divorce proceedings involving clients) should clarify their role with the parties involved and take appropriate action to minimize any conflict of interest" (NASW, 1999, 1.06d).

- "Social workers should inform clients involved in family, couples, marital, or group counseling of the social worker's, employer's, and agency's policy concerning the social worker's disclosure of confidential information among the parties involved in the counseling" (NASW, 1999, 1.07g).
- "Social workers should protect the confidentiality of clients during legal proceedings to the extent permitted by law. When a court of law or other legally authorized body orders social workers to disclose confidential or privileged information without a client's consent and such disclosure could cause harm to the client, social workers should request that the court withdraw the order or limit the order as narrowly as possible or maintain the records under seal, unavailable for public inspection" (NASW, 1999, 1.07j).

In light of the code's provisions, Joanne should have explicitly addressed issues of confidentiality and loyalty at the outset of treatment. For example, she may have stated that she viewed information shared as open for disclosure within the entire client system. Similarly, it would have been ethically sound to clarify her intention to avoid triangulation between the clients in disputes in sessions or following treatment. The code would suggest that Joanne seek to have the subpoena withdrawn or require a court order for her testimony, in that complying with the subpoena without Alex's permission is a violation of his privacy.

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How do ethical principles align with Joanne's choices? Three have particular relevance for her decisions in this matter. The principle of fidelity, and the related concepts of honesty and trustworthiness, would encourage her to act in congruence with the understandings set forth at the outset of her service in the case. That is, which decision regarding the subpoena is consistent with the informed consent agreements made with the Rawlings? If the informed consent promised privacy and neutrality, it would be proper to resist the subpoena and keep the promises made to her clients.

Which choice leads to the well-being of the parties or avoids harm to them? The principles of beneficence and nonmaleficence appear to support not testifying. While Ann and potentially the children are helped by Joanne's testimony, Alex is harmed by it. If Joanne fails to testify, she is neither harming nor helping Alex: his case and Ann's will be judged on their merits. Failing to testify would not necessarily harm Ann and the children, unless Joanne has a powerful perspective on the case that no other testimony would equal.

Justice, the duty to treat all equally, would also align with a decision not to testify for Ann. Theoretically, justice might be served if Joanne shared her impressions of *both* Ann's and Alex's parenting. However, being even handed is not the only principle at stake in this case. It would still be inappropriate for Joanne to testify if her assessment of the parenting was not central to her work with the couple. Furthermore, testifying about the strengths and weaknesses of both parents doesn't negate the fact that one parent has not permitted such disclosure. Put another way, it is not fair to work with the couple on one issue then testify about other things learned in the course of that treatment, nor is it fair to breach a client's privacy without compelling professional reasons.

Laws and regulations are also germane to this case. The Health Insurance Privacy and Portability Act of 1996 established federal standards to protect the personal health information in all forms, including paper records, electronic data and communications, and verbal communications (HIPAA Medical Privacy Rule, 2003; "Protecting the Privacy of Patients' Health Information," 2003). These provisions would appear to restrict Joanne's ability to share information in the custody

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suit without both clients' permission. As noted earlier, state laws may specifically address disclosures in divorce and custody matters. Even if they do not, state confidentiality provisions, if more stringent than HIPAA, would apply to Joanne's dilemma. There are no apparent statutes that would support Joanne in choosing to testify for Ann and against Alex in this dispute.

Like legal standards, there is also a robust body of clinical wisdom about managing confidentiality and conflicts of interest in conjoint and family therapies. Many point to the initial sessions and informed consent processes as the foundation for clear expectations about the clinician's loyalties and responsibilities. Whether the clinician treats each member of the system as individual clients or sees them only as a system, focusing on the interactions and relationship, the chosen perspective should be explicit from the outset and revisited throughout treatment as possible conflicts of interest emerge (Gottlieb, 1996).

Why Is Joanne Selecting a Particular Course of Action?

The temptation to abridge a client's privacy often arises from a sense of duty, notions of the greater good, or the clinician's belief that he or she is averting harm. While there is nothing inherently bad in any of these motivations, the intentions are often misguided. Too often, the urge to break confidentiality reflects distortions in a professional's sense of self-importance ("Only I can stop this disaster from happening") or in the risk involved ("What if there's *any* chance of harm coming from my silence about what I know?"). Social workers and other helping professionals are privileged by society and the clients they serve to enter peoples' lives, learn their deepest secrets, and address their most profound concerns. Because of this power, ethical and legal protections are in place to ensure that these intimacies are not violated. This is not simply to preserve the client's privacy, but to reinforce the sanctity of the work with which the profession is entrusted. Therefore, the contracts such as those established through informed consent notify the client about the nature of the work, the ways that information will be used, and the worker's intent to protect information (Smith, 2003). Occasionally, professionals may need to break that agreement to avert a serious, imminent, and foreseeable harm, but by and large they must exercise fidelity to the agreement and refrain from

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sharing information. If this threshold for breaking confidentiality seems high, that is because it is!

In the Rawlings' case, Joanne may well feel that Ann is the preferable parent, and she may feel torn in withholding information that would help Ann obtain custody. However, her professional responsibilities are greater than her desires in the case. She must ask herself if she is in a position to objectively and competently assess appropriate parenting, what specific harms she wishes to avert by testifying, and whether that disclosure is worth the betrayal of Alex and the legal and ethical repercussions of a breach of privacy. Is Alex's parenting detrimental, or simply not Joanne's preferred style? If it is detrimental, are there other mechanisms for introducing those findings into court? Could a custody evaluation by a neutral party better address those than Joanne could, given the nature of her contact with the parents and the therapeutic privilege barriers to testimony?

Would Joanne be comfortable subjecting her choices to review by her colleagues via the principle of publicity? In fact, her efforts to seek consultation on the case would help her measure this, and it is likely that most would support her in not testifying, thereby upholding the ethical and legal standards in the case. Otherwise, she would have to make the case to them that the information she has to share is so compelling as to justify breaking the law and her promise to her client.

In contrast, the principle of reversibility may be of little help in resolving this dilemma, in that Joanne's sympathies may shift depending on whose perspective she takes in the case. That is, if she puts herself in Ann's shoes, she might want to testify, but if she looks at the situation from Alex's point of view, she would refrain from doing so.

How Should Joanne Carry Out Her Decision?

If Joanne decides that her testimony would undermine the interests of one of her clients, she must contest the subpoena. A first step would involve contacting both clients to notify them of the request for information in his case. Ann, of course, may have already approved of the release in writing. Theoretically, Alex could also permit Joanne to share the information in compliance with the subpoena, but it is more likely that he will refuse to waive his privilege of confidentiality. If that is the case, Joanne could, with her clients' permission, contact the

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attorney who issued the subpoena and describe the privacy concerns and the inappropriateness of testifying about custody given the nature of her services. If Joanne's knowledge is deemed to be irrelevant for the custody proceedings, the attorney could withdraw the subpoena.

Failing that, Joanne or her legal representative should contact the court in writing, specifying the legal and ethical grounds for her refusal to appear. This communication should be made in writing and copied to the attorneys in the case (Houston-Vega et al., 1997; Madden, 1998). Alternatively, Joanne's attorney could file a motion to quash the subpoena, voiding the order to appear. In this, the judge may determine that the goals of Joanne's testimony can be met by other means (evaluations or testimony by others without privilege exceptions). If the judge affirms the subpoena and determines Joanne's testimony or records would be relevant, legal representation would help her in depositions, court testimony, and other matters. If Joanne is compelled to testify, representation will ensure that her responses are legally sound and that any refusals to answer are made on solid legal grounds.

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Many situations can give rise to conflicts of interest, including tensions between the client's needs and the worker's financial, or personal interests, and cases where the worker experiences divided loyalties within a client system. Conflicts of interest are often linked to other ethical issues. Professionals are expected to address potential conflicts of interest as part of informed consent procedures. Dual or sexual relationships or other therapeutic boundary crossings inherently create conflicts of interest as the worker strives to reconcile the social, business, or other sorts of ties to the client with his or her professional responsibilities. In an attempt to manage conflicting roles and responsibilities, workers may breach other ethical standards such as those on confidentiality, competence, or professionalism.

Helping professionals are expected to be alert to conflicts of interest and take steps to avoid or mitigate their effects. Sometimes conflicts are apparent because of roles or relationships. An employee declines to serve as a supervisor for his son, who works in the same setting. Or a worker, in reading a referral, recognizes the client as her

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son's bus driver. She declines to take the case based on the possibility that the work may reveal information that is difficult for her to contain or keep separate from her interests as a mother. In both of these cases, the worker can divert the conflict by declining a role that creates conflict.

In other cases, conflicts are internal and less easily managed. A worker with a history of sexual abuse finds herself berating a client whom she believes to be sexual offender. The hallmark of the conflict is in the worker's own emotional reactions and difficulties in achieving objectivity. These may reveal themselves in supervisory or consultative conversations, but if they do not, it is the worker who must be aware of the conflict and take steps to ensure that the client's interests are given priority.

Beyond self-awareness and supervision, legal, ethical, and collegial resources are beneficial in identifying and managing conflicts of interest. Solving dilemmas of this type does not require that social workers ignore or negate their own interests, only that they ensure that the interests of clients are protected and preserved.