Risky Business: Understanding Risk Management and Malpractice Protection

Webinar
March 27, 2013
Webinar Logistics

• Q&A session after each speaker
  – Submit questions in Text Chat Box

• CE credit for NASW members only

• Register at
  www.socialworkers.org/lunchtime

• Print slides, handouts, take CEU post-test
Webinar Speakers

Elizabeth Ali, J.D., Claims Attorney
Western Litigation

Gary Bailey, MSW, ACSW
Past President, NASW
Former Trustee, NASW Insurance Trust
Professor, Simmons College of Social Work

Tony Benedetto, MBA,
Chief Executive, NASW Assurance Services
Webinar Learning Objectives

Participants will learn:

1. The most frequent workplace situations that social workers face which can increase their risk of liability and a lawsuit.

2. How to reduce their risk of liability and how to handle situations of concern as they arise.

3. The protections offered by professional liability insurance and what to look for in choosing policy coverage.
Are You Covered?

“We don't help ladies across the street anymore. Can't afford the liability insurance.”
How Are Social Workers At Risk?

Suicide
Complaints
Treatment
impropriety
Supervision
Abuse
Misconduct
Referral
Death

NASW Assurance Services
Where Social Workers Come First™
Top 5 Claims by Classes of Suits

Individual Claims-Made Program 1990-2011

- Incorrect Treatment
- State Board Complaints
- Suicide of Patient (or attempt at)
- Sexual Misconduct
- Reporting Abuse to Authorities

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Top 5 Claims by Classes of Suits

Agency Occurrence Program 1969-2011

- Sexual Misconduct
- Incorrect Treatment
- Wrongful Death of Patient or Others
- Suicide of Patient (or Attempt at)
- Improper Referral/Placement

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Mitigate Your Malpractice Risk

• Know the NASW Code of Ethics and Practice Standards

• “Ethical Self Protection”
  – Be realistic
  – Learn the rules
  – Develop ethical consciousness
  – Tighten up procedures
Ethical Considerations

**Ethical Inquiries**
- When a question of right or wrong must be addressed

**Ethical Mistakes**
- Errors of Omission (failing to do what the standards require)
- Errors of Commission (doing something that shouldn’t be done)

**Ethical Dilemmas**
- Two possibilities and/or two conflicting standards

**Ethical Violations**
- Violations of the Code of Ethics
- Often occur when personal feelings, beliefs impact decisions

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What About Vicarious Liability?

Anyone can be held partially accountable for malpractice actions of subordinates, assistants, students, supervisees or even colleagues.
Supervision & Consultation

• **Common liabilities:**
  - Inadequate and improper supervision or social worker guidance
  - Sexual impropriety, either between supervisee and supervisor, or between supervisee and client

• **Protections:**
  - Signed contract for supervision, adequate hours
  - Post *Code of Ethics* and review it
  - Keep list of cases supervising
  - Provide supervision on ethical dilemmas
When Do Clients Tend to Sue?

- Disappointment with outcome of treatment
- Believe they have been exploited or used financially, emotionally or sexually
- Had a negative outcome attributed to the social worker’s incompetence or negligence
Your Questions?
Potential Issues and Pitfalls in Social Work

- Consent to treat incapacitated persons
- Confidentiality of client
- Consent to treat minors
- Duty to warn

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What Should You Do if You Are Sued?

- **Remain calm and do not panic**
- Report matter to your insurance carrier
- Don’t discuss your claim with anyone other than your defense attorney
- Admit nothing
What Should You Do if You Are Sued?

- Cease all contact with the client
- Do not destroy any documents
- Use professional consultation with care; Your defense attorney is your advocate
- Be patient and kind to yourself
How Can Professional Liability Insurance Protect You?
How Professional Liability Insurance Can Help

• Provides assistance through free Helpline to answer questions

• Provides experienced third-party administrator to manage incident before it becomes a claim

• Provides defense coverage and protection if a matter becomes a claim
Why You Should Have Your Own Policy

• Peace of mind as you practice as a professional social worker

• Does your agency’s policy:
  – Have sufficient coverage?
  – Share coverage with others?
  – Have exclusions or conflicting interests?

• Portability and continued coverage when you change jobs
What is “Claims-Made” Insurance?

A **claims-made** insurance policy will cover you for incidents that happen between the enrollment date and expiration of your policy, but claims must be reported while the policy is in force.

- It’s important to know you need:
  - Continual coverage with no gaps
  - Insurance now and later, even after retirement
  - Carrier with highest ratings
Tips on Protecting Yourself With a Claims Made Policy

Tips on protecting yourself:

• Report early and often
• Know your policy dates
• Know your retroactive date
• Report potential claims, incidents, suits or board matters to current carrier
What Should You Report?

- Lawsuits and notice of summons
- Demand for money or threat of suit
- Records request when purpose unknown
- Subpoenas, deposition requests, attorney contact

- Letter from Board of Examiners or professional regulatory body
- Any occurrence that gives you a “bad feeling”
Summary of Malpractice Risk Management

• Be aware of potential liability risks and how to manage them

• Stay informed about laws and regulations affecting social work practice

• Understand and apply the NASW Code of Ethics and Practice Standards
Your Questions?
How Can You Choose the Right Coverage?
Ask the Right Questions About Policies

• What are the coverage amounts, deductibles and benefits?
• Do you trust the insurance provider to look out for the best interests of social workers?
• How do your interests differ from those of the insurance company?
Why Does NASW-Endorsed Coverage Matter?
Why the NASW-Endorsed Policy?

• Excellent coverage designed by social workers, for social workers

• Risk Retention Group (RRG): company owned by NASW members
  – Answers to members, not corporate shareholders

• Solid financial backing and stability
  – By “A” rated Lloyd’s, London

• Endorsed by NASW, an organization you trust and that cares about you
The Role of NASW Assurance Services

- Part of the NASW family
- Dedicated to improving lives of social workers and advocating for you
- Socially responsible - after expenses, we invest in programs that benefit NASW members
- ASI develops and manages insurance and other benefit programs with your needs in mind
  - Life, Disability, Auto, Home, Medigap
  - EAPrefer
  - Health Choices and Health Screenings
New NASW-Endorsed PLI Program: Money-Saving Program Discounts

• New practitioners get **25%** discount first two years
• Students only pay **$15/year**
• NEW! Save **5%** for applying online or by phone
  – And, **5%** in future online renewals
• NEW! Save **10%** for taking a Risk Management course like this one
The Role of NASW Assurance Services

• Provides risk management education and tools
  • FREE in-person and on-line continuing education for NASW members
  • Tailored to NASW member needs
  • Earn CEU’s
Program Is Open Only to NASW Members

• Allows NASW Assurance Services to manage all aspects of program:
  – Ensure high-quality customer service
  – Make sure benefits stay current
  – Keep costs low
  – Advocate on your behalf
To Learn More About Our Program

Program information, rates and applications:

- Available online: www.naswassurance.org/pli/professionals
- Available by phone: 855-385-2160