

Chapter 5

Agencies

Introduction

1. Maintaining autonomy
 - a. Professional autonomy
 - b. Wearing different hats
2. Integrity and agency policies
 - a. Internal ethical problems
 - b. External ethical problems
 - c. Having an ethical character
 - d. Professional character traits
3. Agency goals
 - a. Discretion and benign neglect
 - b. Clarity of goals
 - c. Lack of clarity about goals
- 4. Conflicts between agencies**
 - a. Agencies in competition**
 - b. Cooperative endeavors?**

Questions

4. Conflicts between agencies

In any community with two or more social work agencies, overlapping services may exist, and the agencies involved may cooperate or compete. Cooperation can raise as many ethical issues as competition, and the issues can become very complicated when other ethical issues are involved as well.

a. Agencies in competition

Consider the following case where a director misrepresents her agency and misleads both the community and the agency's clients, causing difficulties for the agency's social work practitioners and for other agencies and their practitioners:

5.7 Agency misrepresentation

An agency advertises itself as taking care of the homeless. Its big promotion under its new popular director, Delores, who is a minister, is that it provides 'A Home for the Homeless.' Because of this campaign, and the way it has advertised itself, the agency under Delores has been able to raise significant funds in the community from foundations and from private citizens, and it now receives support from the county government.

But the agency provides only drop-in support for the homeless, and only in the daytime. Delores went to the local motels and hotels asking for donations of small pieces of soap because, she said, 'the homeless need to travel light on the street.' There is no intent on the part of the agency to provide homes for the homeless.

In addition, the agency prides itself on providing help 'no questions asked,' and so is unable to direct those who need housing to other agencies which could help. It refuses to question those who drop in because, it argues, that would be an invasion of privacy, but that policy is also part of a campaign to attract those who need help. The agency tells them, 'We don't ask; we just give.'

Janet is the director of an agency that does provide homes for the homeless. She coordinated the original agreement among the various agencies in the area about how best to help the homeless, but Delores's aggressive advertising and fund-raising has caused funds that would have gone to provide housing for the homeless to go instead to the agency. In fact, county money that is earmarked for the county shelter to provide housing for the homeless is being sent to this agency on the mistaken assumption that it provides housing. The checks are made out to the agency, and Delores is using the money for the agency's programs. The agency's advertising has clearly caused confusion about what the agency does. The agency's accountant also works part-time for Janet, has told her of the misdirected funds, and is unsure what to do.

Janet's agency has not only lost funding, but it has had to spend additional money for 'outreach therapy' at the agency. 'We have to go in there,' Janet says, to assess the needs of the clients so it can try to provide homes for those who need them. The agency was unwilling initially to provide office space for that, and, though it now does that, it charges them 8 cents for each phone call and makes it difficult in other ways for Janet's agency to do its job.

This is a complex case, raising many different problems, not the least of which is that the agency Delores is in charge of is taking public money that does not rightfully belong to it and using it for purposes other than what it is supposed to be used for. It may be using that money for some good purposes, but it is not spending it for the purpose it was given. It is not a difficult ethical judgment that this situation is wrong.

The accountant has a professional obligation to inform the county that it is making a mistake, but now, because Janet knows about the problem, she has an obligation as well. How Janet can best fulfil that obligation is another issue (see the Code of Ethics 2.11(a)-(d)). If she cannot convince the accountant to act, she may need to write the county authority informing them that, somehow, the money is mistakenly not being sent to the agencies that provide housing for the homeless.

The source of the accountant's professional obligation is that the money is being misappropriated and the accountant knows it. Janet's obligations are more complicated. She has an obligation to allow the accountant to act before she acts because, if she acts first, the accountant will be in difficulty. But she also has an obligation to act -- either by allowing the accountant to act or, if the accountant will not act, by acting herself. The source of that obligation is that she knows that the homeless are being harmed and she now knows how they are being harmed. She has the obligation any of us would have to help those who are being harmed, through no fault of their own, when we can help them. She has an additional reason for acting because she and her agency are trying to help provide housing for the homeless and are having a more difficult time of it because of the misallocated funds.

How she should act is another question. It is always important to try to talk through the issues with those involved, and so her first obligation is to talk with Delores, explain what she thinks the problem is and then listen to what Delores has to say (see the Code of Ethics 2.11(c)). She will then be far better positioned to determine whether she needs to do anything else or whether, somehow, she may have misunderstood something about the situation.

It is a situation that, as Janet now understands it, clearly needs to be turned around. Among the other problems are these:

(a) The agency is misrepresenting what it does. That is itself a harm because it is taking money from the public under false pretenses, but Janet's worry ought to be that harm will come to the other social work agencies in town when the truth comes out. People who have given to that agency and then discover that they have been taken may be less likely to give in the future to any such agency, not knowing which are misrepresenting what they do. After all, if one cannot trust a minister in charge of an agency, why should one trust others who claim their agencies will help?

(b) The agency is giving the homeless a band-aid when major surgery is needed. What the homeless need, it may be argued, is a long-term solution that provides them with housing, not just small bars of soap so they can 'travel light.' That Janet's agency has had to create an 'outreach' program to go into the community to reach the homeless to determine what their needs are and try to meet them is a rather obvious sign that the homeless need more help than the agency is giving them -- help with filling out forms, for instance, so that they can get other aid they are entitled to from other agencies.

(c) Because the homeless are not being housed, they are presumably still in the neighborhood at night, sleeping in lobbies of businesses and on the streets, causing resentment among business owners and the public in general who are then less willing to give since the dollars they think they have been giving for the homeless are not solving the problem.

(d) The agency has turned what ought to be a cooperative endeavor among the various agencies in the community into a competitive enterprise, harming the interests of the homeless in the process, obviously, but also making it significantly harder for the other agencies to provide the aid the homeless need.

If Janet, or the accountant, do what they are obligated to do regarding the county checks, that may in itself set in motion a train of changes sufficient to turn the situation around. Taking on Delores may be difficult, given her popularity, but her popularity is bound to fall once it is known that she has been using money for one purpose that was allocated for another.

But a long-term solution requires a concerted community effort, one in which various agencies do not find themselves in competition for the limited funds that are going to be available. Since Janet coordinated the original agreement among the agencies about how to help the homeless, she has a special obligation now to try to reinvigorate that agreement, perhaps bringing in the county or other governmental agencies not only to ensure that any public funding goes to solve the long-term problems, but also to provide a check against the Lone Ranger mentality of the agency in question. What is needed is oversight as well as a long-range solution, and only through a coordinated effort with the other social work agencies and with governmental bodies can Janet hope to deal with the various problems this agency has created.

b. Cooperative endeavors

Agency Misrepresentation presents a particularly complicated set of ethical issues. These are caused in part because of the agency's misrepresentation, but, rather obviously, conflicts may occur between agencies even where there is no misrepresentation and where the agencies involved are both committed to the same ethical goal. The free-market system encourages that, and when a not-for-profit agency has the same goal as a for-profit company, the conflicts may be particularly difficult to resolve. Consider the following case:

5.8 An adoption agency

Adoption agencies are licensed by the state, and the state restrictions are all designed to ensure that the best homes are found for adoptive children. One agency, which we shall call 'Homes for Babies,' is advertising that 'it will get you a baby,' according to Joan, the director of another adoption agency. The advertisement also says that Homes for Babies does not always get 'the cream of the crop,' or, as Joan puts it, 'a baby of Caucasian parents, with excellent medical backgrounds, no mental illness, prenatal care, a healthy attitude towards adoption, a willing father.' So they are 'tagging babies,' Joan thinks, making distinctions between them that are inappropriate.

Joan has had several cases where she or one of her social work practitioners has been working with a client for several months, only to go to the hospital to discover a representative of the other agency there. In most cases the birth mother has said that she wants to work with the other agency.

Joan is concerned that such agencies are being licensed. They charge a great deal of money for an adoption, and the adoptive families pay the medical and other expenses. Her agency and the other non-profit adoptive agencies charge their expenses and do not let the adoptive families pay any of the medical or other expenses. One former client told Joan that the Homes for Babies would allow her to meet with the adoptive parents when Joan's agency would not allow that, and Joan is concerned that the agency may be paying the birth mother, which is illegal.

She is even more concerned that the agency is not doing right by the children. One concern is that the home studies are not as thorough as they should be. The agency has an incentive to keep its costs as low as it can and so may not pay enough to provide a sufficient check on the adopting families. But the main problem for Joan is that while her agency starts with the children and tries to find the right home for them, Homes for Babies starts with those who want to adopt and makes a profit only if it finds a baby for them. It thus has a financial incentive to place children in homes that may not be best for them.

We have some problems in this case similar to those we had with the agency in *Agency Misrepresentation*. For one thing, the relation between the two adoption agencies is more uncooperative than Joan's agency thinks relations ought to be between agencies providing the same sort of service. If she thought the other agency's primary concern were for the welfare of the children, Joan might call this new agency if her agency had a child it could not place well. Yet her concerns about what Homes for Babies is doing means that she must hold back in order to ensure that the child's best interests are met. And Homes for Babies is not likely to call her should it run across a baby it cannot place right away. To maintain its

profits, it is more likely to keep that knowledge to itself until it can find a set of adoptive parents for the child.

This non-cooperative attitude extends to the services the two agencies provide for the birth mother too because, as Joan's experience in several cases made clear, Homes for Babies is aggressively recruiting birth mothers whom Joan's agency had worked with right up to the birth date.

Homes for Babies is apparently not misrepresenting what it does. Indeed, its advertising that it does not always get 'the cream of the crop' may be thought to be like a product warning label: 'Look before you buy!' But, of course, that warning may also be a defense against potential lawsuits from any parents who end up being dissatisfied with the adoption. The agency can always say, 'We told you so.'

But the agency's concentration upon finding babies for adoptive parents rather than finding homes for children may cause harm in at least the following ways:

(a) Rather obviously, that concern to find babies rather than homes for babies may mean, at a minimum, that it will not provide the best home environment for the babies that is possible and, at the worst, that it will provide a bad home environment for them. If its primary incentive is to increase its bottom line, it is more likely to overlook potential problems than to proceed as cautiously as it should were its concern only the baby's well-being.

(b) A second area of concern is that it will not do the best that can be done for the birth mothers. They need prenatal care, but they also need extensive support. It is not easy giving up one's baby, and the sort of counseling needed both before and after the birth is time consuming and so expensive. Homes for Babies has some incentive to ensure that a birth mother obtains good prenatal care because it presumably wants to ensure that the adoptive parents have a baby which is healthy enough to satisfy them, and it has some incentive to provide counseling before the birth because it does not want a prospective mother to change her mind. But counseling that encourages a prospective mother to give up her baby is not neutral and, rather obviously, may not be in the prospective mother's best interests -- or the baby's, for that matter (see the Code of Ethics 1.06(b)).

In addition, the agency has little incentive to ensure the extensive support a birth mother needs after giving up a baby. The agency will want to keep its expenses low so that it can be competitive with other for-profit agencies and so that it can earn more without charging so much as to discourage potential adoptive parents. So the agency has an incentive that the woman not change her mind, and so an incentive to counsel her after the birth, but again not with a neutral frame of mind.

(c) Another source of harm is that non-profit agencies will have fewer babies to offer adoptive parents. Indeed, Joan may object that, as its name suggests, Homes for Babies does get the cream of the crop since its aim is to find adoptive homes for babies, not all children who need them. Since most adoptive parents prefer babies to older children, they are more likely to work with that agency than agencies like Joan's, which will come to have fewer babies and more older children, the more successful Homes for Babies is. Potential adoptive parents will become more and more likely to work with for-profit agencies than with non-profit agencies, who will have fewer and fewer babies to offer, and potential parents who might have come to consider adopting older children may not come to the agencies that would have given them that opportunity.

(d) In addition, the agency's primary concern to increase its profits may cause it to overstep the bounds for placement. For instance, it may have paid the expenses of the birth mother, getting the money from the prospective adoptive parents and providing a real incentive for her to give her child up and to give it up to that agency rather than to Joan's. Joan suspects Homes for Babies of providing funding for the birth mothers because that

seems the most reasonable explanation for why that agency is able to take over birth mothers Joan's agency has been working with. But that financial inducement makes it seem to Joan as though the agency were buying babies.

(e) Another source of harms is that if the agency is failing to match well the needs of the babies it places with the families who adopt them, not only will the babies be harmed, but the families and society at large may have to pay heavy prices for the consequences.

(f) Any failures of such agencies as Homes for Babies will harm the reputation of all adoption agencies among those who fail to distinguish, or are unable to distinguish, between the ones that operate for profit and those that do not. So, just as in Agency misrepresentation, the long-term consequences of one agency's failures may harm innocent agencies engaged in the same sort of activity and so harm their fund-raising capacity and thus the services they are trying to provide.

Of course, all these harms, real, likely, and possible, must be balanced, as our method tells us, against the good that such agencies as Homes for Babies do. In advertising that it does not always get 'the cream of the crop,' it is saying that it is willing to place infants whom other agencies may have trouble placing. So some babies who would not get homes, or who would not get homes until they were older, will get homes. And that is a benefit. In addition, some couples who would like to adopt children will no doubt get them through such agencies when they might have had a long wait with non-profit agencies, and that is a benefit -- provided, of course, that they ought to be parents and that they ought to be parents to the particular baby they have adopted.

So what ought Joan to do, if anything, to mitigate the harms she thinks are occurring, or are likely to occur, given the entry of for-profit adoption agencies like Homes for Babies into the adoption market? She faces the same sort of problem Janet faced. There is little she can do within the system to mitigate the harms.

In fact, it is striking what potential remedies will not work in either case. The sort of consultative process that ought to be the norm for how social work practitioners work out problems is likely to be ineffective in either case. Homes for Babies has no incentive to change its way of operating, except perhaps in regard to some features it might be called to account for legally, and though Janet has an obligation to talk with Delores about the problems her agency is causing, the problem is that there is a need for a long-term community-wide program for the homeless. Whatever Delores may agree to do, what is required to achieve the needed end is a broader consensus among the interested parties than Janet can achieve just by talking with Delores. For one thing, other agencies will have to be brought into the process. What they will need to do, to achieve their ends, is to change the structure of the systems which are producing the problems they have.

In other words, as we work through the harms in the existing system and ask ourselves what Janet or Joan might do to mitigate those harms, we find ourselves turning, once again, to ask what goals are in question. If Janet's goal is to ensure that the county spends its money properly, she could go to the county to complain about Delores's misrepresentation. There may be no other way of getting the county to reconsider what it is doing with that money, but if Janet's goal is to find long-term housing for the homeless, the problems Delores is causing are minor irritants -- an occasion for remedial action to change the system. Of course, Janet has an obligation, in any event, to hold Delores accountable to the Code of Ethics and if Delores is not willing to stop the misrepresentation, to file a complaint with NASW or with the state licensing bureau.

The same is true of Joan. Ticking off the harms Home for Babies causes could initiate an inquiry which would consume a great deal of the for-profit's time and thus a great deal of its profits. But the most likely way to prevent the multitude of harms she thinks such agen-

cies cause would seem to be for the state to make such agencies illegal or so to regulate them that they operate for the benefit of the babies being placed. To achieve either of those ends, Joan would undoubtedly have to work together with other non-profit agencies to lobby the state legislature to change the existing laws and licensing requirements.

The problems Janet and Joan face are no different in kind from those faced by other organizations. We expect sometimes fierce competition between corporations like General Motors and Chrysler, but even non-profit organizations can clash. The Red Cross might seem a paragon of disinterested benevolence, but it controls the nation's blood supply, and when it increased prices to its customers and a variety of competitors sprung up in response, it played economic hardball to retain its customer base. One lesson of the cases we have examined is thus that governmental or non-profit social work agencies are as subject as for-profit organizations to the collision of competing interests.

We may think it should make some difference when the clash is between social work agencies when they have a common mission, for that ought to make it easier to set up cooperative arrangements to settle the sorts of jurisdictional disputes raised by Agency misrepresentation. And when organizations are working for the same end, as in An adoption agency, it might seem easier to create the kind of collaborative programs that Joan would like. But as those two cases illustrate, agencies can come into conflict with one another or with other organizations, like Homes for Babies, for a variety of reasons, and one or both of those organizations having an ethical mission neither prevents such conflicts nor allows for easy resolutions.