

Chapter 4

Relations Between Social Workers

Introduction

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Introduction

As anyone who works knows, those who work together can cause problems for each other. Social work practitioners are not immune from this general truth, and ethical issues can arise because of the relations between colleagues or between them and their social work supervisors. As in any profession, social work practitioners work with others in their profession, and when they have differing judgments about practice, conflict may result. We shall consider this issue in Section 1 and then, in Section 2, other ethical problems that can arise between colleagues.

Social work practitioners may have professional relations with such professionals as physicians, lawyers, and teachers as well as with other social work practitioners. In Section 3 we shall consider the sorts of ethical issues that can arise in relations between social work practitioners and other professionals.

Our concern is to articulate the ideals that ought to regulate relations among social work practitioners and between them and other professionals.

1. Difficulties between colleagues

The method of tracking harms requires that we come to understand why the participants are doing what they are doing, and one of the best ways to achieve that end is to ask them. But though the method thus works best when those involved in a case talk with one another, communication can fail for a variety of different reasons. We shall here explore the ideal in §a and then, in §§b and c, ways in which that ideal can fail to be achieved. We are thus not using the method here, but exploring one of the conditions for its best use.

a. The Ideal

Differences in status, in gender, in experience, and in educational background, among others, can make a difference as to how one is perceived by others in the profession,

and such different perceptions can create ethical problems. Consider the following case:

4.1 Peers?

A male social worker seduced and molested one of his clients, an adolescent male, who then molested his younger sister. The boy is now with his father and step-mother, but his present social worker, Henry, is pushing to reunite him with his mother and sister.

The girl's social worker, Margaret, is uncomfortable with this. She thinks the child needs more therapy, and that will end if the family is reunited. But most importantly, she is not sure the girl will be protected if the boy returns to the family.

Yet she says she is unwilling to 'confront' the boy's therapist, as she puts it. 'He has a Ph.D., and I don't; he's established, and I'm new to this community.'

Margaret thinks her client is at risk of being molested again if the brother goes back into the family without more therapy.

The boy is Henry's client, not hers, and in judging that he needs more therapy, Margaret is also judging that Henry is mistaken in thinking he should be reunited with his family. Yet she says she is unwilling to 'confront' Henry. If we follow the first step of our method so we can understand why she is unwilling to confront Henry, we can attribute to her something like the following reasoning:

1. To protect my client, I need to tell Henry he is mistaken in his judgment.
2. But Henry is superior to me both in terms of his credentials and his experience in the community.
3. Therefore, I will not confront Henry.

This reasoning is faulty in a variety of ways, as we shall see. But one additional reason Margaret may have for being hesitant in 'confronting' Henry is that he has been providing therapy for the boy and so is presumably better positioned to make a judgment about the need for further therapy than Margaret. So Margaret not only has a natural and understandable reluctance to query a fellow professional about a professional judgment, especially when she thinks he is more experienced and better qualified than she, but she may have a reluctance to query him about a judgment he is better positioned to make than she.

Yet since she thinks the boy needs further therapy, she presumably thinks that failing to tell Henry means not protecting her client. Because she has an ethical duty to protect her client, she would seem to have an ethical duty to tell Henry because telling Henry appears to be the only way she can protect her client (see the Code of Ethics 2.01(c) and 2.05(a)). But she says she is unwilling to confront Henry. We thus have two issues:

- Why does she think that it is only by confronting Henry that she can tell him of her concerns?
- Even if she must confront him, is she not obligated to do that to protect her client?

She must think she has very good ethical reasons for not confronting him if she thinks not doing so puts her client at greater risk. She says it is because he is more experienced and educated than she and because he is established in the community and she is not. But nei-

ther are relevant reasons for not acting to protect her client.

We know that education and experience count. They put a person in a better position to know what to do in any particular situation, but someone's having education and experience does not guarantee that a correct decision has been made in any particular case. What matters is what is in the children's best interests. For all we, or Henry, or Margaret can know, she may be in a better position than Henry to make the proper determination because, perhaps, she knows something about the details of the case that he does not know. She will not be able to find out whether his judgment is well-reasoned until she talks with him, and if she fails to do so, she will never know why he is making the judgment he is making and thus will never herself be in a position to judge whether she or he is correct.

What matters in coming to a decision about what we ought to do are the reasons for the decision. The reasons must be relevant, and where there is an ethical issue, the reasons must themselves be ethical and weighty enough to determine the conclusion. In appealing to Henry's being established in the community and better educated than she, Margaret is not appealing to any reasons why Henry's client ought or ought not have more therapy. By not talking with him, Margaret guarantees that she will never know whether he had good reasons for his judgment.

We are not in a position to judge whether she will harm her relationship with Henry if she talks with him any more than we are in a position to judge whether the boy needs more therapy. But whether or not any harm may come from her talking to Henry, Margaret does not have an ethical dilemma. An ethical dilemma only arises when we have two or more incompatible options, one of which we must choose, but both of which will cause harm (or produce good). Margaret cannot both do what she feels she ought to do for her client and not talk with Henry. So her options are incompatible. But though she has good ethical reasons for trying to help her client, she gives no ethical reasons not to talk with Henry.

Indeed, as a general rule, in situations where cases impinge upon one another so that what happens in one case can affect what happens in another, practitioners have an obligation to talk to one another (see the Code of Ethics 2.05(a)). In the first step of our method, we ask, 'Who are the participants in this case, and who else is affected?' Whether Margaret likes it or not, her case and Henry's are intertwined, a decision in one affecting the other, and she thus has an obligation to try to understand why Henry is making the decision he is making -- just as Henry has an obligation to talk with Margaret so he can understand her concerns.

One problem with the reasoning we attributed to Margaret is that it needs another premise. She must be thinking that

I can only tell Henry about my concerns by confronting him.

Henry may be the sort of person one cannot talk to without confronting, but that seems unlikely. He may be better positioned than she to know what to do in this case, but what is the harm in asking him for his reasons? If her primary concern is to ensure that her client is not put at risk of being molested again, she has good reason to talk with Henry and no good reason not to.

Indeed, she has an obligation to talk with Henry if that is the best way to protect her client. She would need an ethical reason for not talking with him, and an ethical reason weighty enough to justify putting her client at risk, but all she says is that she would have to confront Henry. That does not provide an ethical reason.

But she also has other reasons for explaining to Henry her concerns. Allowing him to proceed, despite her misgivings, may harm Henry's client. If Margaret is right that the boy

is not yet capable of handling the pressures of being back with his mother and sister, Henry causes him harm.

And Margaret may cause Henry harm as well. If someone is about to make a mistake -- like walking on a bridge that will collapse with the slightest impact -- you have an obligation to inform the person of the difficulty so that the person can reconsider what to do in the light of this new information. And if that mistake will harm you or your interests -- because the hillside you are on will collapse as well -- then that person has an obligation to talk with you though, until you inform the person of the problem, the person may not realize they have such an obligation. Perhaps Henry should take the initiative, but if he does not realize how what he is doing affects Margaret's client, her failure to talk with him means that he will not fulfil his obligation to talk with her. Margaret thus harms Henry by not allowing him to do his duty.

In addition, deferring to Henry's judgment without talking with him means he has no chance to hear her concerns and no chance to assess his judgment in the light of those concerns. No one is immune from error, and he may have made a mistake. By not talking with him, she fails to treat him as a reasonable person -- someone with the capacity for learning in light of new information (see the Code of Ethics 2.01(a)). She also encourages him to make the same kind of mistake the next time and so harm a new client. So Margaret has an obligation to talk with, and listen to, Henry.

Similarly, Henry has an obligation to talk with and listen to Margaret's reasons why the boy should not be placed in his family and, if he thinks Margaret mistaken, an obligation to explain to her why he thinks her mistaken. This is an especially pressing obligation when harm may result to the client of a colleague because of our actions. Professionals are obligated to explain their actions when those impinge upon the legitimate concerns of other professionals. This is not merely a matter of professional courtesy, though it is that, but a matter of ethical concern because of the harm done if the obligations of Margaret and Henry to their clients are not fulfilled.

Ideally a social work practitioner should not be hesitant in talking about a case of mutual interest with another social worker. How Margaret talks with Henry will do much to determine their working relationship, and if she begins by confronting him, she may irreparably harm that relationship. Ideally she ought to be able to talk with Henry, a colleague, about what is best for her client, as well as for his, without any concerns about differences in status, in educational background, or any other feature that is irrelevant to her doing her best by her client. She ought to be able to talk with him presuming that he has reasons for doing something she thinks unreasonable and presuming that, because he is competent, he will respond to the reasons she has for thinking he is making a mistake. Indeed, morality requires this for two different reasons.

First, justice requires that we treat like cases alike and unlike cases unlike. When we are trying to decide what to do in a particular case, this means we ought to make the same decisions for the same sorts of cases and different decisions for different sorts of cases. If we are to be just, we must consider only relevant reasons. It would be unjust to treat one person one way and another another way if the only difference between the two were their race, for instance. Just so, it would be unjust for Margaret to decide what to do in regard to her client by taking into consideration Henry's educational status and standing in the community. These features of Henry are not relevant to whether Henry's client ought or ought not to have more therapy. If decisions were determined by anything anyone happened to consider, we would have no assurance that like cases would be treated alike and unlike cases unlike. It might turn out that if Margaret does not talk with Henry, for the reason she gives, and the boy is placed back in the family, everything will turn out all right. But

that would be luck, and Margaret will not have done her duty to do what she can to help her client. Ethics requires her to take into account only what is relevant in deciding what to do.

Second, any social work practitioner has an obligation to find the best ethical solution for a case. In situations where the cases of two or more practitioners overlap so that a decision in one case can affect what happens in another, there is, as we saw, an obligation for the practitioners to talk to one another. But we ought always try to seek help in making a decision about a difficult case if we can do so without breaching confidentiality or causing any other serious ethical harm.

(a) It can help enormously to talk a case through with another professional, including a supervisor, who understands the sorts of issues involved. In discussing it with another professional, we are forced to articulate the case's important features to explain the problem we are having with it. That helps us get clear on the essentials of the case. We also gain the power of another mind who can help us get clear on why those in the case are doing what they are doing, what our goals ought to be, what our options are, and what the various harms are of alternative courses of action. It is always an advantage to brainstorm about various options. As possible ways of resolving the problem are floated, we can more readily come to understand better what features of the case are causing the main problems and why certain proposed solutions will not work and others might.

(b) One problem we have when we are part of a case is that because we are inside it, as it were, we may find it hard to back off to judge what is best to do. It is difficult to be a participant and judge simultaneously. Our self-interest as a participant can conflict with making an objective decision. Another professional provides another point of view, one that is likely to be more objective than ours.

(c) We can get advice about how to do what we have decided we ought to do. Margaret thinks of herself as having to confront Henry, but one piece of advice to her may be that she should not think of talking to him in that way. She apparently thinks she must accuse him of making the wrong decision. But she might just tell him of her concerns and ask him to explain to her more clearly why he thinks she should not have the concerns she does. She seems so enmeshed in the case that she does not realize how irrelevant it is to concern herself with Henry's educational status and length of service in the community. Getting her to see her way clear of those irrelevancies does not yet solve her problem, however, if she still thinks of herself as having to confront Henry. So she also needs to figure out how to talk with Henry, and talking to another professional can help provide her with the kind of distance from her problem that will allow her to see how to proceed.

Dialogue can always help, that is, in working through the method of tracking harms, and we have been engaging in dialogue about each of the cases we have considered so far. We have thus suggested ways of looking at them that may not have been clear to those practitioners whose cases they are, and we have suggested goals and alternative solutions that have often opened up the case so we have much more clarity about what we ought to do than when we first encountered the case.

b. Questions of competence

For instance, we have decided that Margaret ought to talk with Henry if for no other reason than that she thinks his judgment about his client adversely affects her client. To talk with him is not to question his general competence, but sometimes we may question the reasons a colleague gives often enough about a wide enough variety and large enough number of judgments that we do put in doubt their professional competence. Consider the

following case:

4.2 *Family therapy*

Jessica was a member of a family service agency which had brought in a person from outside to teach the agency personnel about structural family-centered therapy. Peer review was instituted, and the seven social workers would meet regularly, view video-tapes, and talk about their cases.

Jessica was having a very hard time learning to use the new form of therapy. It requires that the social workers align themselves with a particular family member, but only for strategic purposes. One is never to form permanent alignments. But Jessica would form relationships with particular family members, the woman or a female adolescent, and not be able to break them. But that is harmful to the clients. Rather than achieving independence, they end up with a different form of dependence, unable to achieve a new balance of relationships within their family because of their attachment to the social worker.

When this was pointed out to Jessica, she became extremely frustrated, threw up her hands and said, 'Well!' She cried another time, upset because, as she put it, 'I was doing everything right, and yet you tell me it's all wrong.'

The other social workers all agreed that she was not competent using this particular approach. 'She was operating off a psycho-dynamic individual model, which is very different from a structural or strategic model.' They all felt that she was harming her clients, but though they had the evidence of their own eyes and could talk about how she failed to respond to suggestions, they said they could not prove her incompetence to the supervisor. Besides, she had been with the agency for almost 20 years and so had seniority over the other six.

This case raises the issue of whether Jessica is competent using the structural model (see the Code of Ethics 1.04(a)). An incompetent social worker can badly harm the interests of a client, and so ethics requires that judgments of competence be made. Yet making such general judgments is a delicate task, and at least three questions need to be asked.

(a) Who is to decide? Just as Henry seemed better positioned than Margaret to make a judgment in Peers?, so Jessica's colleagues seem better positioned than any outsider to judge what she is doing. But because they are in the case, and most affected by what they think she is doing, they may not be the best judges. In addition, being good at something, like social work, does not in itself mean being good at making judgments about who else is good at it and who is not. The competence to make judgments of competence requires special knowledge and skills and attitudes -- an understanding of the various ways in which to practice in the profession; an ability to back off from your own preferred method of practice to assess another method of practice that may not mesh at all well with yours; a capacity to withhold judgment while you listen to all those involved, aiming for a full hearing of a case's ins and outs; and so on (see the Code of Ethics 1.04(b)). So we should not presume that because Jessica's colleagues are social work practitioners, and know a great deal of information about the case, they thereby are competent to make a judgment about Jessica's competence.

(b) This is especially so because another issue makes a difference to judgments of competence even when we have the best of evidence. By what standards are we to judge? People can disagree about what it is to be a competent social worker. This is particularly so in regard to therapy where different techniques have their advocates. The level of disagree-

ment may be so high that some who use one technique think those who use another flirt with incompetent practice.

Even when there is agreement about what model to use, we may have disagreement, within a model, about what is acceptable and what is not. Practitioners using the structural model may agree that alliances with certain members in a family should be terminated, but disagree with when to terminate them. Some may think that the sooner the better, before the alliances are firmed up and the risk of dependence becomes too great. Others may think that the later the better, after the alliances are firmed up and independence from the family is achieved, even at the risk of dependence upon the therapist.

The difficulties Jessica's colleagues face now becomes clearer. They must not only have evidence of incompetence, but also essential agreement about what would make a social worker competent. Because they are themselves presumably new at using the model, they must realize that others may think them lacking experience about its features and particularly about when to terminate alliances adopted for strategic purposes. Even those adept and seasoned at using the model may disagree in a particular case on this issue. In short, Jessica's colleagues must be prepared to be clear not only about what Jessica is doing wrong, but also about what she would have to do to be doing things right, and being clear about that may be harder than it might seem.

(c) Jessica's colleagues are well positioned to respond to the third question that must be answered whenever we make a judgment of competence. On what evidence are we to make a judgment? Evidence of incompetence can be difficult to achieve in many professions, social work included, for two different sorts of reasons.

First, we are rarely able to observe the field practice of our colleagues. One of the marks of being a professional is having autonomy -- the capacity, among other things, to make decisions about what is or is not in a client's best interests independent of the oversight of others. But our having autonomy means that most of our work is done with clients in such a way that others have few ways to judge whether we are competent or not.

Second, the sorts of decisions we make as professionals are complicated enough, and can go wrong in so many different ways we cannot be responsible for, that our competence or incompetence may be hard to discern. Too many other factors in a case may be responsible for failure.

In Family therapy, Jessica's colleagues have more than most colleagues would have on which to base a judgment. They have videotapes of her in therapy with clients, and they have the dialogues they all engaged in about all their cases. So they could see how Jessica interacted with her clients, and they know how she interacted with them when she talked about her cases and about theirs. So in answering the question, 'What's your evidence?', they had as much as anyone could reasonably expect anyone to have in such a case.

So what ought they to do? In regard to Peers? we argued that when social worker practitioners have a conflict about a case, they have an ethical obligation to talk with each other, each beginning by presuming the other competent and concerned to help their clients. Talking is required by the method of tracking harms because if your colleague is impinging on your case by what is being done, you must understand the reasons for the colleague's actions before proceeding (see the Code of Ethics 2.01(a) & (b)). You ought to presume that your job is to find out why your colleagues are doing something you think unreasonable. If, after talking with them, you think their reasons are not good ones, you are to try to convince them that what they are doing is not the right thing to do.

But a judgment that someone is incompetent is very different from a judgment that the person has made a mistake. When we think colleagues have made mistakes, we presume competence on their part in talking with them to understand the reasons for their ac-

tions. But when we judge them incompetent, we talk with them not to convince them to act differently, but to see how we may help them become competent. The Code of Ethics requires this:

Social workers who have direct knowledge of a social work colleague's incompetence should consult with that colleague when feasible and assist the colleague in taking remedial action (2.10(a)).

It was in talking with Jessica about what she was doing with her clients that her colleagues became convinced that she was incompetent using the structural model. She was unable, it seems, to see why others might think what she was doing was not right. So talking with her about remedial help does not seem a serious option. If she is unwilling or unable to understand why others might see that what she is doing is wrong, she would presumably be less willing to admit that she needs remedial help so she could do things right.

Whatever her colleagues's solution, it ought to be necessitated by what must be their primary concern -- the well-being of the agency's clients. The obvious next step would be to go to the supervisor and explain what they thought was happening, but they say they do not think they could prove her incompetence. We have provided some reasons for their thinking that, even with the best sort of evidence anyone can get.

So what are they to do? Their options seem to be limited. They must do something to try to protect the clients from harm, and they cannot do anything without talking with the supervisor. This is the sort of situation where brainstorming possible alternatives and assessing their consequences would help, but initially, at least, there appear to be two options.

First, they can try to convince the supervisor that Jessica is incompetent or, as the Code of Ethics says, they can 'take action through [other] appropriate channels established by employers, agencies, NASW, licensing and regulatory bodies, and other professional organizations' (2.10(b)).

Second, if they think that sort of move ineffective and likely to cause harm to the agency and perhaps to them, they can point out to their supervisor that they are unable to work with Jessica. They may truly say that Jessica and they are unable to work through cases to the satisfaction of all concerned. The consequence is that the sessions are not working well, they are dissatisfied, Jessica is dissatisfied, and the clients are being harmed if for no other reason than that the social workers cannot reach consensus about how to treat them. They might then suggest that because the set of them can reach agreement about how to proceed, and because Jessica is the one who does not agree, it might be best for all concerned if Jessica were re-assigned to do something else.

Jessica's colleagues should be prepared for one effect of their judgment. It is not an easy thing to have your colleagues judge you incompetent, and Jessica's colleagues ought to be prepared for what is a quite normal set of reactions to the judgment they are making about Jessica -- anger, indignation, counter-charges.

It is because anyone can be presumed to take such criticism amiss that those making the judgment should carefully consider how they should talk with the person about the problem. The last step in the method of tracking harms requires that you

(5) Determine how to do what you have determined ought to be done and do it in a way that will itself produce more good than harm.

We do not know what transpired in their meetings together, but, given Jessica's reaction,

we can surmise that she did not perceive the criticisms as helpful suggestions about how she might improve. But given the natural defensive reactions to having one's competence questioned, we have an ethical obligation not to raise the issue without a full understanding that questions about one's competence put one's entire professional life at risk. Indeed, having judged that she is incompetent in this area, Jessica's colleagues must wonder whether she is competent in other areas in which they have not been able to witness her practice, and they cannot assume that the inference will be lost on her.

That her colleagues will make this judgment about her general competence is all the more likely given the breakdown of communication. The case might have been different had Jessica been able to say, 'The reason I'm not breaking off the alliances I am forming with the female members of the families I'm working with is that I think it is better to risk their dependence on me than to risk abandoning them too soon in the therapy. Could we talk about how we tell when the appropriate time to leave them is?' She might ask a colleague, 'How do you know when to let go?' With that beginning, dialogue is possible. It was her apparent inability to communicate anything except her frustration at being criticized that seemed to cause the impasse she had with her colleagues and cause them to consider other options, such as going to the supervisor. Her frustration may have been justified by the ways in which her colleagues criticized her, but we do not know that.

We can obviously fail to meet a complex ideal in a variety of ways, to a lesser or greater degree. Some listen very well; some do not. Some speak very well; some do not. We can all think of ways in which we could improve how we communicate in our relationships. But Jessica's problem is not that she needs to learn to communicate better. What has gone wrong is not that communication has failed to reach the ideal, but that it has broken down completely between her and her colleagues. We have the opposite of what we ought to be striving to achieve among social work colleagues.

c. Failures to communicate

The following two cases raise a different but connected set of issues. We are often in situations in which we seem to be communicating, but nothing happens that ought to happen. We may tell someone of a bad performance and explain that this or that must be done if the performance is to be improved. The person appears to understand what needs to be done, but, in the end, does not change. Consider this case:

4.3 Relapsing

Cynthia had been having problems with her work, but before her supervisor, Corliss, was able to talk with her about them, a client of hers who knew she was a recovering alcoholic reported that she had seen Cynthia drinking in a bar. A colleague also told Corliss that he thought Cynthia had begun drinking again. He had gone in to talk with her and saw that she was leaving little empty whisky bottles in her wastebasket. Corliss then discovered that Cynthia had had periodic problems for some time before she had transferred to Corliss's department. 'There is a history here,' Corliss thought.

Corliss talked to Cynthia and explained that if her colleagues could see the empty bottles, her clients could too. Corliss and she agreed that she would have a month of residential treatment.

She did that, but though she was O.K. for awhile after she came back, she relapsed. Corliss discovered that Cynthia had not followed through on her appoint-

ments, and, in addition, she was not doing her job well. So Corliss fired her.

Cynthia committed suicide, leaving a note blaming the colleague who had told Corliss that he thought she had begun drinking again. Corliss had told her that though she was fired, she could return if she 'went into treatment and was sober for six months.' So 'she knew,' Corliss added. 'She had that option.'

One potential source of difficulties in any professional organization is that though each member is a professional, some have power over others. Because each member of the organization is a professional and so presumed competent to make proper professional judgments, difficulties can arise if other professionals, in positions of power, overrule the members' professional judgments. In addition, those professionals with power over others are wearing several different hats, as the standard metaphor has it, and their wearing several hats can be a source of ethical problems.

So, though Corliss arranged for Cynthia to have treatment, she did not do that just because she is a social worker. She also did it because she was concerned about her and because, without the treatment, Cynthia could not be an effective employee. So Corliss was acting both as a concerned colleague and as a supervisor. She did not cease being Cynthia's supervisor in dealing with her, even as she tried to help her, as though she were a client. It was thus not a 'suggestion' that Cynthia get treatment for a month, but an order, with the threat of being fired if she did not go into treatment and remain 'sober for six months.' The ethical situation was thus different from what it would have been had Cynthia just been Corliss's client. If she were to keep her job, Cynthia had no choice but to do what Corliss recommended she do.

Corliss could not have taken off her supervisor hat even if she wanted to, and in that way the metaphor of wearing several hats is misleading since it implies one can wear first one and then another. So even if Corliss had not directly threatened Cynthia with the loss of her job, Cynthia would know that the same person who was telling her what she needed to do to become well enough to keep her job was the person who could fire her if did not do it.

Where those who hold supervisory positions are social workers as well as supervisors, their relationship with their employees is complex. They are, as social workers, peers of their employees. Yet as supervisors they can no longer relate to them just as peers. They must relate to them both as peers and as supervisors.

But though it changes the relationship between social work practitioners when one is the supervisor of another, it should not change the ideals that we articulated regarding Peers? (see Code of Ethics 2.09(a)). We ought to presume that social workers have the same ends in mind and that the best way for them to achieve those ends when there is disagreement is for them to talk the problems through to determine the ethically best thing to do. A crucial difference one of them being a supervisor adds is that the supervisor can fire the employee. So when Corliss and Cynthia talk things through, Cynthia may find she may have to do what she does not want to do. As the case makes clear, the outcome was that Cynthia was fired and that she subsequently committed suicide. In asking whether Corliss did the right thing in firing her, we need to consider both results.

What preceded the firing was a pattern of problems. Her repeated failures were interfering with her effectiveness as a social worker and harming her clients. Corliss did not fire Cynthia because she relapsed, but because she had formerly had problems which had not been resolved and because she was not doing what she was supposed to do in order to resolve those problems. First, there is the pattern of repeated drinking. She drank before, and she is drinking again. Second, there is the pattern of failure to solve that problem. Cynthia did not solve it before, and she is not now doing all she can to solve it because she

is not following through on the appointments she was supposed to have made and kept when she came out of her treatment.

We have here the same sort of justification that was needed in Family therapy. It would not be enough for Jessica to have one or two problems using the new form of family intervention. What was necessary to justify her colleagues judging her incompetent was a pattern of failure with the new form of intervention, a pattern that continued even after talking about her problems with her. Similarly, what is necessary to justify terminating Cynthia is a pattern of behavior that repeats itself despite treatment.

Such patterns are not always necessary to justify action. We can readily imagine single acts, such as an assault, which would justify termination, and it is not just any pattern of behavior that would justify termination, but one destructive of people's capacity to do their work properly without harming clients. Having been given several chances to change, and having been given another chance when she was told she could come back if she went to therapy and remained sober for six months, Cynthia has no good reason to complain of bad treatment in being fired.

Similarly, she has no good reason to blame Corliss or anyone else at the agency for her being fired, and so neither Corliss nor the other social workers ought to feel any guilt about her committing suicide. A failure to understand on the part of someone, despite numerous attempts at trying to communicate in a variety of different ways, is not the fault of the person trying to communicate. If what we do is the right thing to do, then we are not generally responsible for how someone responds to that.

Unfortunately, even when communication is successful and, we want to say, the person must surely understand, other factors may intervene to prevent the person from acting on the communication. We then have a new ethical problem. This can be especially troublesome when there are patterns of behavior that would justify firing someone. Consider this case:

4.4 Bending over backwards

Betsey had known of Jonathan for a long time and had met him as a colleague. He had been very successful working with clients and was well regarded in the community. She needed someone for a supervisory position and hired him after going through 'the regular routine of references.' Though Jonathan's director at his former agency complained and said he hated to see Jonathan go, he said he would prefer that he remain in the community.

The staff really liked Jonathan, but after a half year or so, things began to go wrong. Jonathan did not handle his routine business well, failing to answer phone calls or respond to letters. He was writing letters for the agency even though those had to be approved by Betsey. And he was confused a great deal of the time, testifying in court, for instance, about a case but mixing up the details with some other case.

After documenting the difficulties, Betsey told him that 'things are not going right' and would have to be corrected. The following Monday Jonathan's wife called and said he had been readmitted to an alcohol unit. Betsey had not known he had problems with alcohol. He was off for six weeks, came back, did well for awhile, but then began to have problems again. It turned out that he needed a heart by-pass operation.

Betsey was getting a lot of pressure to fire him from some of the staff and from the Board (see the Code of Ethics 2.09(a) & (b)). The agency was short-staffed

anyway, and Jonathan's comings and goings over such a period of time, combined with the state of his papers and memos because of his confused state of mind, were creating extra work for everyone. In fact, the agency was audited seven times because of the problems Jonathan created and was beginning to get a bad reputation. But some of the staff were adamant that he be kept, and, as Betsey said, 'I didn't feel I could fire someone who was going in for heart surgery.'

But when he came back, he was no better. Betsey made him 'a line worker' even though he was being paid as a supervisor, but he could not handle that either. Betsey suggested he resign with disability, coming in to work on a contract basis whenever he felt able, but he refused, and after trying to get him to quit, she finally had to fire him. Jonathan was black, and he claimed racism on Betsey's part.

When she later talked to the director of the agency he had worked at before, the director said that they had tried to warn her, but also that he didn't want Jonathan in his agency. Betsey thought that she had gotten anything but a warning from the director and that he had given her good recommendations in order to get rid of Jonathan.

This case raises a variety of issues, including whether it is appropriate to provide misleading or false recommendations. We are concerned here only with the features of Jonathan's condition that led Betsey to fire him and with the difficulties she had in communicating and getting the kinds of changes needed from him. Her argument for firing him is not complicated, but it is instructive about how best to proceed in such cases.

First, it was not enough, she thought, for there to be a single incident or even several where Jonathan did not do what he was supposed to do or got confused enough to cause problems for the agency. Though she did not articulate this, she must have thought she needed a pattern of problems in order to proceed and that she needed to be able to prove that there was a pattern by citing time and place and problem. The presumption must be that it is only with a pattern that we have evidence of some underlying difficulty, something that will continue to cause problems if action is not taken. As with Jessica in Family Therapy, it is not enough for there to be a single mistake; what is needed is a pattern of mistakes that suggests an underlying incompetence.

Second, she documented the problems he was having. First you find a pattern, and then you write it down. The presumption is, appropriately, that only with documentation of such a pattern of behavior can a clear case be made, one that does not rely on contestable memories.

Third, Betsey raised the issue with Jonathan so that he could know what she thought the problem was with his behavior. She told him both what he was doing and that what he was doing was unacceptable.

Fourth, she tried to ensure that he got treatment for the underlying difficulties without being penalized. He was given leave to get treatment for alcoholism and then leave to have by-pass surgery. Betsey acted on the assumption that the pattern of behavior that needed correcting was caused by alcoholism or by the physical problem, or both. If Jonathan needed by-pass surgery, his heart may not have been pumping enough oxygen to his brain, and that might account for his being confused.

The ethical reason for ensuring that he got treatment is that it would be wrong to penalize someone for something that is not their fault or for something that may be their fault, but may be correctable within a reasonable period of time. Having heart problems was not Jonathan's fault, and though some may hold him accountable for being an alcoholic, giving him a chance to change means, at a minimum, that he has no right to complain if he does

not change and the problems attributable to his being an alcoholic continue.

Fifth, when the problem continued, Betsey lowered the expectations of what was required of him, but without penalizing him, giving him a line position while paying him as though he were a supervisor.

Sixth, when that did not help, and the problems continued, she gave him the option of retiring, with disability, working on contract whenever he wanted to and was able. Only when he refused, and the problems persisted, did she fire him.

What Betsey did very nicely captures the steps we all ought to try to follow in such situations if we can. It represents, in fact, the ideal -- the best that we could be expected to do for our colleagues in one of the worst of situations between colleagues. So it is worth laying out in a more orderly fashion. Communication can fail in many ways, and when the stakes of successful communication are high -- as they are when someone's career is on the line -- we ought to be as sure as we can be that we have communicated as best we can.

(i) Gather evidence of the supposed pattern of misconduct and document it. That will show what the basis of the concerns are. It is wrong to discipline anyone without clear and documented evidence of a sustained pattern of misconduct in regard to the ordinary course of one's professional activities. Of course, as we have said, about some matters no pattern is needed. One assault is enough to justify disciplinary action.

(ii) When you have such a written statement, you should talk with the person accused of the problem. It is wrong to discipline someone without the person's knowing what they are accused of doing. So that person needs to be informed. This is part of what one owes to colleagues because they are colleagues. It is a matter of professional courtesy, but it is also required so that you can be sure you understand what the source of the problems is. You not only need to inform the person of what you think, but need to be informed by the colleague. What looks wrong given what you know may turn out to have an innocent explanation. It would also be imprudent, in this age of lawsuits, to discipline anyone without a written statement of a pattern of misconduct.

The situation we examined in Chapter 1 where the woman killed her lover with a butcher knife while he was being held by the police is an object lesson in how something can appear one way and be another. She looked stupid to do such a thing in front of what are presumed the best witnesses a court could ask for, and yet she may have done it because she thought it was the smartest thing she could do.

In any event, we ought to inform those about whom we have evidence of misconduct because, for one thing, he or she may simply not be aware of the problem, odd as that may sound. Busy people often become overloaded and simply do not realize, for instance, how many phone calls they have failed to return. Or there may be another simple explanation, the person accused being overextended because they are covering for someone else. Without talking to the person, we cannot be sure we know what we seem to have solid evidence for.

(iii) Where the person is willing, we should try to help by changing the underlying conditions that are producing the problem. In some cases it may be a simple matter of providing additional support -- additional secretarial help, for instance. In others it may require more substantial intervention. This was the case for Jonathan, who was first given leave to get treatment for his alcoholism and then to have by-pass surgery.

In some situations, giving someone a chance to change is not always wise or ethically right. If Jonathan were engaged in a pattern of sexual harassment against other employees, Betsey's giving him a chance to change would subject those employees to the continued risk of harassment. She would have to ask whether taking the chance that Jonathan would change was worth the risk of further harm to other employees -- and the lawsuits

that subjecting them to such a risk would itself risk.

(iv) Where it is possible, provide an alternative for the employee that solves the original problem. Betsey did this by making Jonathan 'a line worker' -- a position he had successfully held before. Unfortunately, in this case, that did not solve the problem. Jonathan was as unable to handle the obligations of this position as he had been unable to handle those of being supervisor, and the agency's clients were at risk of harm.

But we can understand Betsey's motivations. On the one hand, she was trying to retain someone who had been as asset to the agency, and she was trying to retain him in the position in which he had worked well. On the other hand, she was trying to provide some alternative for Jonathan short of firing him, something that would allow him to continue. Her underlying aim was presumably to cause as little harm as she could either to the agency's clients or to Jonathan, given that she could not let him continue to work in his supervisory position.

(v) If a person must be fired, try to provide another option if possible. Betsey did that when she suggested that Jonathan retire with disability, coming into consult when he could. Her concern was presumably to minimize the harm -- both to Jonathan and to the agency.

If we go through the steps in this process, we find that two ethical concerns animate them. On the one hand, we need to minimize the harm to those concerned -- to Jonathan, to the agency's clients, and to the agency and its staff, some of whom found Jonathan's comings and goings on leave disruptive. We may question whether Betsey acted to minimize those harms as much as she could, whether, for instance, her continuing efforts to help Jonathan may have harmed the agency's clients while he muddled through, but there is no doubt that she ought to act to minimize the harms. On the other hand, we need to provide as much respect to those involved as we can. Betsey did this for Jonathan. She gave him choices where that was possible, for instance, as in the last step where she gave him the option of resigning.

We might question whether Betsey found just the right combination of these two ethical concerns -- whether she weighed the potential harm to Jonathan more heavily than she should have since one consequence of the delay in firing him was that the agency was audited seven times. But our concern here is not with the details of how Betsey handled the case, but with the principles she utilized and the procedure she adopted.

Betsey needed to be concerned about firing Jonathan because he claimed racism, he was ill, and the staff was split over whether he should stay or leave. So one way to assess whether what she did was right is to ask whether, at the end, the clients, Jonathan or any of the staff had any right to complain of how he was treated. Was he informed of what was expected of him and of what he was doing that was wrong? Was the evidence of what he was doing wrong correct? Was a good-faith effort made to help him change what needed changing? Was an alternative provided so he could stay on without causing difficulties for the agency and its clients? Was he provided a graceful way out of the situation? We can work through the case asking each of these questions and determine how well it matches up to the ideal procedure for handling such situations.

2. Less than the ideal

As we have argued, social work colleagues ideally ought to respect each other and talk to one another about common problems without any other concern than that of trying

to achieve their common goals. In *Peers?*, Margaret was overly concerned with how Henry would react to her talking to him about her client, but even when we communicate well with our colleagues, achieving between ourselves the ideal that ought to mark our professional relations with one another, we may still fail to reach agreement or, reaching agreement, find ourselves stymied by some feature of the situation we cannot talk through:

- We may find a disparity regarding goals. We may disagree about what the proper goals ought to be, or agree but fail to realize that we do, or realize that we do but fail to coordinate our activities well enough to achieve our goals, and so on.
- We may agree about our goals, but disagree about how best to achieve them, one colleague thinking we must do one thing, another thinking the best way to proceed is to do something quite different and incompatible.
- Even if we agree on our goals and the means to achieve them, we may find ourselves unable to work well with a colleague.
- We may find ourselves at odds with colleagues even though we agree on our common goals, and on the means to achieve them, and respect the colleagues and can talk well together. For someone else may have created a situation which puts us at odds with our colleagues in a way that we as colleagues cannot repair, even with the best of intentions and the best of relationships. Such a situation may arise when, for instance, employees are paid differently for the same work.

When colleagues are working together, we should always ask:

- a. Is there agreement in goals?
- b. Is there agreement in means?
- c. Even when there is agreement in goals and in means, do other difficulties get in the way of their working well with each other?
- d. Even if they can work together well and agree on goals and means, are external factors producing problems between them?

We shall consider each of these issues in turn as we look at new cases and re-examine others (see the Code of Ethics 2.05(b)).

(a) Is there agreement in goals? -- In *Having sex*, the social worker, Aubrey, thought Theresa's previous worker had been wrong to have a sexual relationship with Theresa, and she wanted Theresa to press charges. When Theresa refused, Aubrey pursued the matter on her own. Aubrey's goal was to 'get the former therapist' while Theresa's was to get on with her life. We can readily imagine two social workers disagreeing and communicating their disagreement to each other -- as Aubrey and Theresa do.

(b) Is there agreement in means? -- In *Hurting oneself*, Annette wanted to take her previous therapist to court, but her new therapist tried to persuade her that it was not in her best interests to do that. This case illustrates how difficult it can be to determine, when there is disagreement, whether the disagreement is about the goals themselves or about the means to achieve them. Though Annette and her therapist are at odds about what she ought to do regarding her former therapist, they agree that she should do what will raise her self-esteem and increase her sense of personal power. Annette thinks she will be better off standing up to someone who has hurt her and winning, and her new therapist

thinks the likelihood of losing is so high that it will harm her more to pursue the matter. So they seem to agree about the goal -- doing what is best for Annette -- but disagree about the best way to achieve that goal.

Working out such disagreements can be a difficult matter, and the normal difficulties of resolving such disputes can be complicated when each party to the dispute thinks his or her position is ethically best. Consider, in this regard, the following case:

4.5 *Value judgments*

Jane works in private practice in a clinic that specializes in feminist therapy, with a strong emphasis on holistic health and 'a general understanding of the mind-body connection.' She works with several other social workers, one of whom, Mary, she found naive about the risks involved in working with battered wives.

Mary was encouraging one of her battered clients to confront her husband. Mary thought that confrontation would help resolve the problems between the couple. But it did not seem to help, and Jane thought Mary unable to cope with the husband of the woman she was counseling. The man kept coming to the clinic, threatening Mary and other social workers, and putting all of them 'in grave danger.'

The group met without Mary to talk about the problem and then spoke to Mary about the harm they thought she was causing her client and the danger she was putting them all in, but Mary refused to change her focus on this client. She thought it had to do with the client's right of self-determination. The client really wanted to stay in the relationship.

Jane disagreed with Mary's understanding of the situation. As she put it, 'If a woman's getting hit, and it could escalate to something worse, and she's telling you about it, but is not willing to leave, how long do you remain a part of that situation?' Battered women often have trouble leaving those who batter them, and Jane thought that Mary's client was not really exercising self-determination and that Mary was failing to intervene appropriately.

Mary ended up leaving the group 'under pressure.' She did not want to leave, but the group was not willing to risk the danger to themselves or to the battered woman.

Mary thinks she is doing the right thing in urging her client to confront her husband, and Jane thinks she is doing the wrong thing. This case raises the ante over Peers?, for instance. It involves the issue of what social work practitioners ought to do when they disagree with what another social worker is doing and, after talking with the social worker, find that the disagreement reflects differing conceptions of how to handle what are admittedly difficult cases. It is one thing to judge a colleague wrong when the colleague seems genuinely unable to understand what is at issue, as in Family therapy, and it is quite another to judge a colleague wrong when the colleague has clearly articulated ethical reasons for acting in a way you think wrong.

At least one of you must be wrong when you disagree in this way, and perhaps you both are, but when you both make ethical cases for doing what you think right, and you disagree, working out what is right can be difficult. After all, you each think that if you were to do what the other is suggesting, you would be doing what is ethically wrong, and it can be difficult backing off and making an objective judgment in such a situation. The first step is to

- (1) Try to understand why the participants are doing what they are doing by constructing arguments that would justify their acts or omissions.

We need to try to get clear on why the client wants to do what she wants to do, on why Mary is so sure she is right about how to help the client, and then on why Jane is so sure she is right (see the Code of Ethics 2.05(b)).

If we are a participant in the case, it means suspending for awhile our own reaction to the case and trying to construct the argument we think justifies our actions and would justify what we want to do. We have not emphasized before this turning of the method upon ourselves, but participants in the case are not to make themselves immune from the requirements of trying to be objective about why they themselves are doing what they are doing.

But let us take the client first. She wants to stay in the relationship, she says, and even though she is being battered, she may think that her leaving might preclude forever the couple's resolving their difficulties. The wife must think she has a terrible dilemma. If she stays, she sustains a relationship with her husband, but risks being battered more. If she leaves, she risks losing the relationship she says she wants, but presumably protects herself against the harm she incurs in the relationship. What she wants, it seems, is a new kind of relationship with her husband, one not harmful to her. The problem she thinks she faces is how she can both protect herself and forge that relationship.

If we follow the first step in our method in regard to Mary, we must ask why she thinks the woman should confront her husband. The possibilities are many, but one likely one is that she thinks the very act of the woman's confronting her husband will force a new relationship between them, that his wife's standing up to him will require him to recognize her as a person.

The Code of Ethics tells us that we ought to encourage self-determination, but in this situation, encouraging the wife to stay, and particularly to confront her spouse, may encourage further battering and not further self-determination. So if Mary encourages the woman to stay and confront her husband, she bears a heavy burden. She must have very good reasons for encouraging something that may be so harmful. What could explain her thinking she is doing what is right?

Is there an argument we can plausibly attribute to her that would make sense of what she is doing? We will need to remember that in trying to figure out why she is doing what she is doing, we are not justifying what she is doing. No matter how plausible we can make her position sound, its sounding plausible does not make the premises true.

So what could Mary say? She could concede that the wife is at risk of being harmed further, but insist that a proper respect for the principle of self-determination requires that a social worker do what can be done to further what the client perceives to be in the client's best interests, not what the social worker or anyone else believes the client ought to do. Of course, Mary cannot argue that she is helping the client further her self-determination unless she has provided the client with all the relevant information about domestic assault shelters, batterers, victims, and the cycle of violence -- how research shows, for example, that couples cannot resolve their differences staying in the relationship, how the prognosis for the husband is poor even if he gets counselling, and so on. Mary cannot argue that she is acting to further the woman's self-determination unless she has provided the woman with the means for proper self-determination.

If she has done that, then, she can argue, she has an obligation to respect the woman's judgment, even if she thinks it mistaken. Just as in Ready to die it was a mistake for the psychiatrist to argue that the woman was incompetent because she did not want

chemotherapy, so here it would be a mistake to argue that the woman is incompetent because she has decided to stay in the relationship. If she has made that decision after a full examination of all the relevant information, and if she is competent, and if she is not being coerced or threatened (as she might be if her spouse said, for instance, that he would kill her if she left him), then we have to accede that whatever decision she makes is her decision and that we must live with it, however irrational or harmful we think it may be.

Mary could also argue that because the woman has said she wants to remain in a relationship in which she is likely to be battered, the only way for Mary to help her is to try to change the relationship so that the husband will not beat her. And that would explain why she encourages the woman, if she is to stay in the relationship, to confront her husband. For Mary may think, as we said, that the act of confronting the husband will force a new relationship, as the woman stands up for herself and the husband is forced to see her as someone who can stand up for herself. She thus can give an ethical argument for encouraging the woman to confront her husband -- despite the risk of further battering.

She has no choice, Mary can argue, if she is to respect the woman's decision and try to prevent her from being harmed. We ought not to substitute our judgments for our clients, Mary could say, for clients need to be encouraged to act with self-determination, and, anyway, it is hard to get people to do what they do not perceive to be in their self-interest. So sometimes, Mary could concede, we need to support clients who are not doing what we think they ought to do.

Again, none of this is to suggest that Mary's understanding is correct. She has other options that she apparently did not explore, for instance. She could encourage the woman to see another social worker -- Jane, for example -- on the assumption that perhaps a new voice could begin to change the way the woman is thinking about the problem (see the Code of Ethics 2.06(a)). She could tell the woman that her husband ought to seek treatment. She could teach the woman skills to help her handle her problems that do not require confrontation. She could teach the woman that love does not require being a victim. But we are at this stage only trying to figure out why Mary may be doing what she is doing, not assessing whether her position is correct.

Now let us see if we can understand Jane's position. Hers is that Mary's encouraging the wife to confront her husband not only risks harm to the wife, but also puts the members of the clinic at risk. Battered women often have trouble leaving those who batter them. So Mary may be wrong in thinking she is furthering the woman's self-determination. We ought not always do what clients want us to do. Clients can be badly mistaken about their best interests, and as the Code of Ethics states, social workers have an obligation to be concerned about clients' exercise of their self-determination when that poses 'a serious, foreseeable, and imminent risk to themselves or others' (1.02). In saying she wants to remain in the relationship, the woman may not be expressing her self-determination at all, Jane suggests, but expressing a desire determined by the relationship in which she is battered. We should no more let her do what she says she wants than we should let a sleepwalker drive who says she wants to go out. The woman's desire to remain in the relationship should not be a decisive factor in determining what ought to be done, Jane is saying, given the harms that do and may result.

So where are we now? We can understand why the issue between Mary and Jane is so contentious that it led to Mary's leaving the group 'under pressure.' Either the woman ought to go back into the relationship or she ought not, Mary cannot agree to the latter because she thinks that denies the woman's self-determination, and Jane cannot agree to the former because she thinks doing that will harm the woman.

Mary and Jane have directly opposite views about what ought to be done, each

founded on their ethical judgments about the right thing to do, and it is difficult to figure out how either could compromise in any way.

We also are not well positioned to assess who is right. The weight of research about spousal abuse is against Mary, and the potential harm to the staff must be weighed in as well. But the primary focus ought not to be who is right, but what will happen to the client. Will Mary continue to help her, even though she is no longer associated with the group? Will some member of the group take over? Or is the woman to be an innocent victim of this dispute? We ought to take special precautions to ensure that the person being abused is not subject to further harm, and so, whoever is right, the primary consideration must be to ensure that the client is served (see the Code of Ethics 1.16(a), (b), (e) & (f)).

But putting the matter that way makes clear just how the form of the dispute is part of the difficulty. Mary and Jane share a common goal, the self-determination of the woman, but disagree on the best means to achieve it. So how the client is to be helped after Mary leaves the group will be as contentious as how she is to be helped while Mary is in the group. And even the judgment that it is not clear who is right without further information (about, for instance, what Mary has told the woman about spousal abuse) is likely to be contentious to those who hold either position.

We should note one other issue before leaving this case. It is essential to the members of a group working together and achieving what success they can that the members respect the other members of the team. If the members do not respect each other's capacity to be good professionals, they cannot well achieve their common goals (see the Code of Ethics 2.01(a)). The clinic was organized to specialize in feminist therapy, for instance, and presumably anyone not committed to that basis for organization would not fit in well. So one issue that emerges in this case is what degree of agreement in judgments is required by those in the clinic. How much agreement is required for social work colleagues to work together as a team?

Having everyone agree about what ought to be done may mean that nothing decided ever gets challenged and mistakes get repeated. So there are good reasons for encouraging diversity in a group. Differences can enrich a team. But they also can cause difficulties, as in this case and in Family therapy. The danger when faced with someone in a team who does not readily fit in is that we will too quickly make the issue into one of competence without good reason. It can be easier to exclude someone from a group for being incompetent than it is to accept the sorts of disagreements that we see between Mary and Jane. That is not to suggest that Mary had good reasons for her position, but it is to suggest that the ideal is a dialogue that encourages the diversity in judgment each person brings to a group.

What this case illustrates is that agreement on the goals may be accompanied by significant disagreement on the means to achieve the goals. This has much to do with the way goals are usually framed. We say that we want the client to exercise self-determination, but that is a vague phrase, consistent with a variety of different understandings of when a client actually exercises self-determination. So we may have verbal agreement without substantive agreement, and, unfortunately, there is no magic formula for handling disagreements in goals or in the means by which to achieve agreed-upon goals.

Some cases that raise issues about goals can be relatively easy. But Value judgments is not an easy case. The principle to follow in all cases, but especially when there is doubt about what to do, is that one should do that which causes the least harm, consistent with helping one's client. Unfortunately, this principle gives us little leverage in Value judgments. Both parties to the dispute argue that their solutions cause the least harm, consistent with helping the client. They disagree on what is most helpful to the client.

Perhaps the best advice we can give in such a situation is to remind everyone in-

volved that the client's interests are paramount and that unless there is compelling evidence otherwise, they should presume that their colleagues are working in what they believe to be the client's best interests. At least then, when there is disagreement about the ends or the means chosen, it need not escalate into confrontation and colleagues can still continue, despite the disagreement, to treat each other with the respect and good will that ought to mark ideal collegial relations.

(c) Even when there is agreement in goals and in means, are there other difficulties that get in the way of their working well with each other? -- In *Bending over backwards*, Betsey's colleague at the agency at which Jonathan had previously worked told her that he hated to lose Jonathan and was at least happy Jonathan would stay in the community. Betsey liked Jonathan's work and presumably shared the goal of keeping him in the community. Hiring him was a way to do that. But the head of the other agency then claimed, after Jonathan had left his agency and the harm was done in Betsey's, both that he tried to warn her and that he wanted to get rid of Jonathan. It is difficult not to believe he lied to Betsey to get rid of an employee he did not want.

We do not have his side of the story, but it is easy enough to construct the dilemma those who make such recommendations typically face. On the one hand, they have an employee who is not doing a good job whom they either do not wish to, or cannot readily, fire. If they give a bad recommendation, they do not solve their problem. They might decide not to give a bad recommendation, just saying that the person worked here and describing the duties of the position. But that is to risk questions about the evaluation. So they might agree to give the employee a good recommendation if the person resigns. They have a prudential reason for giving a good recommendation. But they have other reasons as well. If they do not give a good recommendation, they risk being sued by the employee, who will complain of someone's recommending that they not be hired when that person is employing them. If they are doing such a bad job that they cannot be commended in a recommendation, they can ask, why are they still employed?

In addition, employers may be convinced, or want to be convinced, that while the employee is not working out for them, he or she may work out much better in a different setting. Writing a bad recommendation means judging that the person is beyond hope, and things have not yet reached that point, presumably, or they would have been fired. So it is ethically wrong to write a bad recommendation, the argument would go, for an employee who is not working out. It would be to limit their options without good reason.

Of course, to the person receiving the recommendation, all this is likely to seem, after the fact, like so much self-deception and self-interest on the part of the person making the recommendation. Not remarking on serious problems with an employee when asked for a recommendation is, at a minimum, to mislead a colleague. Surely Betsey should wonder about whether her colleague in the other agency is going to tell her the truth about any other difficult matter they may need to work out together, and she will now think twice about relying on anything he might say that makes a difference to her or her agency and its employees. His misleading her about Jonathan does not just have an effect for her regarding Jonathan, but has implications for any future relationship with him. She now knows she cannot rely on the other agency's director to tell her the truth if her knowing the truth could hurt his interests.

Those who must recommend people they would prefer not recommending know how difficult it can be to craft a statement that is honest, but does not invite a lawsuit. The way out of the dilemma Jonathan's former employer may have faced was to be honest, letting Betsey know of the problems they were having with Jonathan and letting her decide, on the basis of accurate information about his bad and his good points, whether to hire him or not

(see the Code of Ethics 4.04). As it was, Jonathan's former employee simply passed his problems with Jonathan on to Betsey, unremarked, and so the two failed to reach the level of honesty that ought to mark relations between colleagues -- through no fault of Betsey's.

Sometimes, however, the difficulties colleagues may have cut so deeply against the ideal that it becomes ludicrous to suggest that they guide themselves by that ideal in trying to resolve the difficulties. This sort of situation can be aggravated when one colleague has power over another. Consider in this regard the following:

4.6 Harassment

Amy works in an agency associated with a hospital. She had been hired by her supervisor's boss, not by the supervisor, Don. Both Amy and the boss are African-Americans; the supervisor is white. Both the supervisor and his boss are males. Amy was at the agency before Don came, and he told her that he resented her being there and did not want her there. He then proceeded to harass her, she says, for over two years in a variety of ways.

He had the secretaries keep records of when she was on the phone and of how long she was gone from her office. Such records were not kept for other employees. He would pin memos to her door about what he thought she was doing wrong. He created a new schedule for her one day when she was gone to work on a case at the hospital and then, when she came to work at her normal time the next day, he said, 'I've gotcha. Where were you?' He would not let her look in her personnel file (though she wanted to see the memos there). When she took leave to attend a funeral, he suggested she really was using that as an excuse to have lunch with a friend because she did have lunch with the friend before the funeral.

He enforced a policy against her about not taking more than three sick or personal times in ninety days. She had to leave to take her sick child home from school, then to have minor surgery the next week, again to have the stitches taken out a week later, and then for something else for one other short period of time. He said, 'I'm writing you up for dismissal because you've violated policy.' But the policy had never been enforced before, and he did not enforce it against anyone else at the agency.

He continually harassed her verbally, she said. He would call her into his office and find fault with her work, always taking her to task for not doing something right and saying how good he was compared with her and always complaining that she was getting selected for this or for that when he was the manager. He had, Amy said, 'taunted' two African-American secretaries until they finally left, and she was convinced that he was out to make the agency as white as could be.

She eventually filed a grievance, and when she went before the grievance board, she fully documented what she could of what Don had done. The board found no grounds for harassment, and Amy was told afterwards that the hospital's lawyer told the board that if they did find grounds, Amy would have had good grounds for a lawsuit. The board did find that there was 'a gross misunderstanding' between Amy and Don, and, Amy learned, the whole agency was later to be reorganized, with Don's managerial responsibilities taken from him. She felt vindicated, but meanwhile the harassment continued.

In a situation where there is harassment, we seem as far removed from the ideal relationship between colleagues as we can get, and all the features that go to make up the

ideal are in question. There is no respect for the other's professional abilities, no willingness to listen and try to understand the other's point of view when there is disagreement, no willingness to work together to solve common problems, and so on. There is a loss of all the features that mark the ideal.

Don's motive is unclear. Perhaps he is a racist. He is accused of having harassed the two African-American secretaries so that they would leave, and Amy is the only African-American among the other employees of the agency. Perhaps he is sexist. Amy is apparently one of the few females among the staff who is not a secretary. Perhaps he revels in power. His complaining that she was selected for various things when he is manager suggests professional jealousy. Or perhaps, and it seems highly unlikely, he was concerned about the budget and chose an inappropriate means to try to balance it by forcing Amy out.

Don's motive matters if we are concerned to try to change his attitude so he no longer engages in such behavior. But his motive makes no difference to assessing the harm he has caused. And he clearly has caused great harm (assuming that what Amy asserts is true).

First, he has engaged not just in a single act, but in a sustained pattern of acts. Consider the application of the rule that no more than three leaves may be taken in a ninety-day period. It is not enough to say, in objection, that the rule has never been applied before. Don's response can be that it ought to have been applied before and that he is now beginning what he should long ago have begun. The objection to what he is doing must rather be that he is not applying it to others, and so is in that way unfair, or that he is not applying it fairly to Amy, and so is in that way unfair. She could properly object if she later discovers that others have also been absent for more than the rule allows and not been disciplined. Or she might properly object that the rule is meant to be used when there are inexcusable absences, not when the absences are minor and necessary.

Yet even if her objections are well-taken, Don might say, 'Oh, sorry. My mistake.' He may or may not have made a mistake, but everybody accused of doing what is wrong can get themselves off the ethical hook by claiming that they made a mistake -- conceding, that is, that they were wrong, but suggesting that we all make mistakes and so should not be penalized if we do and admit it.

But a pattern of unethical behavior implies a sustained campaign. We are less willing to let someone off the ethical hook if there is such a pattern because there are far fewer ways to explain how one could have made a mistake that produced such a pattern of inappropriate behavior.

Second, it is thus important that there be acts or omissions of different sorts -- applying rules, tacking memos to Amy's door, berating her, and so on. For it is then much harder to justify what one is doing as the result of some sort of simple mistake.

In Harassment there is not just a variety of acts, but, and this is a third feature to note about this case, a pattern of harmful and varied acts. It is possible, and sometimes seems diabolical, to harass someone by engaging in acts, over and over again, that are in themselves perfectly harmless. Siblings seem to have a knack for figuring out just what they can do that in itself seems harmless but, when done over and over, harasses a brother or sister, sometimes to the point of tears. But in Harassment some of Don's actions are in themselves harmful to Amy. We might be able to provide an explanation for his applying the ninety-day rule to her, but it would be significantly harder to explain why he would berate her professional skills. That seems unnecessary and harmful in itself.

As is obvious, this pattern of harmful and varied acts that constitutes Don's behavior is as far removed as can be from that necessary for the ideal relationship between professionals we have argued ought to regulate relations between colleagues. If Don is having

trouble with how Amy is doing her job, his job, as her supervisor, is to speak with her, try to get her to see what she is doing wrong, and work with her to see that what needs changing is changed. But harassment is ethically wrong, whatever the motivation for it, and it is far worse ethically when the person doing the harassing is a superior to the person being harassed (see the Code of Ethics 3.01(d) & 3.03)). In addition, as this case makes clear, harassing is risky because the person being harassed may file a grievance, and it is an inefficient way to change a person's behavior, if that is the point. So it is not only ethically wrong, but ineffective.

Yet people engage in harassment, for whatever reason, and its existence creates some serious practical problems. Even bringing it to a supervisor's attention can cause difficulties -- and especially so if the supervisor is the one accused of harassing. It can be difficult to prove, and even if it can be proved, other factors may intervene to prevent an appropriate remedy. Amy says she was told that the reason the board did not find for her is that the lawyer for the hospital told the Board that she would then have a good case if she sued. Documenting harassment so that one can present a compelling case can be difficult, especially if the person doing the harassment is careful not to leave a paper trail. And just bringing a grievance means that the professional relationship between the two parties involved is severely damaged.

These practical problems are all accentuated if the person accused is one's superior. The powers that be may be more reluctant to remove someone from a supervisory position if only because they will then be admitting they made a mistake in giving power to such a person. Again, supervisors must take a critical attitude towards the behavior of employees, in order to ensure that the work is done properly. So they can always defend themselves against a charge of harassment by saying that perhaps they were just a little overzealous in administering -- or that their attempts to help a recalcitrant employee were misinterpreted or that the employee is peculiarly sensitive to helpful suggestions. No matter what happens as the result of a grievance procedure, the employee and the supervisor are going to have a strained relationship, and the employee may have a difficult time getting good recommendations to go elsewhere -- unless, as in *Bending over backwards*, the supervisor is willing to lie to prospective employers to get rid of the employee. This prospect is a good example of how one bad ethical situation can beget another.

(d) Even if colleagues can work together well and agree on goals and means, are there external factors that produce problems between them? -- In the cases we have considered so far regarding the relations of social work professionals, the focus has been on problems created by the professionals themselves. But many ethical problems between practitioners do not arise because of anything one practitioner or set of practitioners does regarding another practitioner, but because of some feature of the situation they find themselves in. They may not do anything to each other, that is, but may find that something has been done to them which creates ethical issues between them. Consider, in this regard, the following case:

4.7 Lying about salaries

In an agency of about 12 employees, several who have been there for some years are making significantly less than others more recently hired. The agency has such a good reputation that many were willing to work for it even though their starting salary was lower than what was then the normal going rate, but, as inflation has outstripped raises, their salaries have become significantly less competitive. As the agency's director puts it, 'There are staff who really have low salaries.'

The director has pushed for increases, and was able to get an increase for one employee who pushed hard, but the agency has always been able to obtain very good employees at lower salaries. So the director has not been able to obtain a general increase for all employees.

One consequence is that some are not getting what they deserve. Another is that some who are equally situated are getting different salaries. As the director says, 'The present situation supports dishonesty.' If the news gets out that one employee has gotten an increase, then others, equally deserving, will demand increases as well. The agency does not have the money for that, and so the director has to be less than forthcoming with his staff about their salaries. Indeed, he told those employees who received raises not to tell the other employees.

This case raises a variety of ethical questions -- about what is just, about what ethical reasons an agency might have for not doing what looks to be the right thing by its employees, and so on. Our only concern here is with the relationship between employees that is created by their being treated differently by the agency and by the director's being less than forthcoming.

One issue is that different employees, equally deserving, are getting different salaries -- through no fault of their own. First, a person cannot be held responsible for having been hired in at a higher salary than someone else in the agency. Prospective employees are not likely to know what others make and would probably not be told if they asked. Second, we can hardly blame a person who succeeds in getting an increase to get what he or she deserves. So, we can presume, the differences between the salaries of the employees are not the fault of any of the employees.

Yet those differences create a set of ethical problems, as we can see by using the third step in our method and tracking the harms, determining what they are and who is harmed:

(i) The situation is unfair in two different ways. First, some are not getting what they deserve, quite independently of what is happening to others within the agency. Even if all were underpaid, each would not be getting what he or she deserves. Second, the situation is more complicated ethically because some are getting what they deserve and some are not. So those who are not getting what they deserve are being doubly harmed -- by not getting what they deserve and by being treated differently from the way others similarly situated are being treated. It is a matter of justice that those in the same position ought to get the same treatment, and here they are not. So some of the employees are being harmed significantly more than others because they are having a double injustice inflicted upon them.

(ii) Many know that they were hired in at a low salary and know that they are not now getting what they deserve. They may not know that others are getting what they deserve, and so may not know about the disparities in treatment, but certainly the agency director knows. Were word to get out, his employees would then know that he knows. That would cause the director, and the agency, great harm.

It would cause the director great harm because they would then know both that he had hired them in at different salaries, despite their similar positions, and that he had kept from them information they would need if they were to press for increases to make things fair. In short, his position as a fair employer would be compromised. His employees would know that he is the sort of person who will take advantage of them if he can and that they cannot trust him to inform them about matters vital to their interests as employees. Good evidence for this judgment of him is that he told the employees to whom he gave raises not

to tell the others (see the Code of Ethics 4.04).

(iii) The director is keeping information from the employees. The phrase used, 'being less than forthcoming,' is a euphemism that may cover a wide variety of sins -- from not saying anything at all about something the director knows to be wrong to lying to those employees who ask. The employees are harmed by this, as we all are who must make decisions affecting our lives without full information. Their capacity for self-determination is being harmed. The agency and its mission are harmed as well. It would be amazing if, were word to leak out, the employees were not very angry at both the injustice of it all and the deception used to try to ensure that the injustices never came to light. Having angry employees in a social work agency is not likely to do the agency or its clients any good.

(iv) In addition, the director is harmed. If we presume that he has the best of intentions and would much prefer his employees being paid what they deserve, the situation he is in has created a significant ethical problem for him. It is never good ethically when someone with good intent is put in a position where they must either lie or risk great harm, and the director has at least the apparent dilemma of either lying to his employees, directly or indirectly by not telling them what they ought to know, or risking the sort of commotion to the agency and to the relations of those within it that the truth would bring. Those who are making what they deserve to make ought to feel that their colleagues are being unfairly treated, and those who are not making what they deserve to make ought to feel that they are being unfairly treated.

Of course, the argument the director may make is that he has no choice but to treat his employees unjustly. Funding for the agency, he would argue, is not sufficient to provide what each person deserves. So when he hires, he must try to hire someone for as little as he can because he must make the money he has go as far as he can, and yet he will sometimes have to hire at market value, so to speak, paying as much as someone deserves. Disparities will inevitably arise through the hiring process because of the pressure insufficient funding produces. The situation in the agency is no different, he could argue, than that faced by any other agency or any business.

In addition, once employees are hired, the lack of funding means either that he cannot make up differences in salaries or that he cannot do that without taking funds from essential services and so harming the agency's mission. So differential hiring will produce differential results which will not be rectified and will, as time goes on, become worse and worse, as those newly hired make or approach the market rates and those hired earlier cannot be compensated sufficiently to make up the growing differences. Again, the director could argue, this is no different than what one finds in any agency or business, as those already onboard are presumably not going to leave unless the differences in salary become so great as to be intolerable and employment beckons elsewhere.

Whatever the virtues of the director's arguments, the situation produces another harmful result:

(v) The employees' interests are at odds with each other. If only a limited amount of money is available, and if many deserve more than they are getting and, more importantly, more than they could get were all the money available distributed, then any gain by one employee is a loss by another. It is an ethical loss as well as a financial loss because each employee is ethically entitled to what he or she deserves, and someone else's getting some of the little that is available means that every other unpaid employee will get less than he or she deserves. Whether the employees wish it or not, their interests conflict, and so the situation puts the employees' interests at odds with one another -- through no fault of their own.

One result -- one wants to say, 'the natural result' -- of the employees being put into

that sort of situation is that they will have less than the ideal collegial relation with one another -- through no fault of their own. After all, some of the employees have been asked to keep from the others how much they are making, and so, if anyone asks, they must at least consider not telling the truth. And if they do tell the truth, they will have less than the ideal collegial relation with the director.

Keeping information from one's colleagues, particularly about matters that are often kept private, does not inevitably lead to other failures, but everyone's knowing that such information is off-limits puts everyone on notice that decisions are being made about some matters affecting the agency without everyone's having full information. And some knowing that they have been asked not to tell the truth puts them on notice at least that others may have been asked not to tell the truth about other matters. Suspicion cannot help but be engendered in such circumstances, and with suspicion comes a loss of a sense of self-determination. To the extent that we cannot know that we are acting on full and accurate information, but suspect that we are making decisions based on inaccurate or incomplete information, we must feel that we are not making fully informed decisions -- independently of the status of the decisions themselves. Our decisions may be fully informed, but the history taints what follows it, and so we cannot be sure that we are acting with complete self-determination. That is a harm when colleagues must trust each other to be forthcoming in trying to work through common problems.

Although conflict between employees is often the outcome of such situations, it need not be. Even though they have competing interests, they do, after all, have common interests. They have each been deceived and each been put in an unjust situation -- those who are being paid what they deserve as well as those who are not. It is less harmful to be paid what one deserves in a situation where others similarly situated are paid less, but it is still harmful. Those in that situation have more than their fair share of the common resources, and if the disparities become public, they know that in getting what they deserve, they are getting more than each in the group deserves because of the limited resources available, and they ought to feel angry. So there is no reason why the employees need be at odds with each other.

They could band together and press for justice for all of them, arguing for a more equitable distribution of the common resources until the situation can be rectified so all will get what they deserve. They would need a real sense of community to be able to do that, of course, and it would help if the director were willing to fight for their interests.

Of course, the director need not have kept all this a secret. He could have made it clear, from the outset, that he was committed to fairness in pay and that only the budget problems prevented him from providing fairness. And he could have committed himself, publicly, to working to try to increase the budget to ensure fair treatment of all the employees (see the Code of Ethics 3.07(d) & 3.09(c) & (e)). The ethical problems he has are to some extent self-inflicted.

Our goal is not to work through this problem, however, but rather to point out that a great many problems that arise between colleagues may be systemic in this way, not caused by one colleague directly harming another, but by a situation being created in which colleagues have competing interests, and so are at odds with each other, through no fault of their own. We would fail to understand the ethical complexities of such a situation if we looked merely at the conflicts between the colleagues. We rather need to look at what produced those conflicts, as in this case. We are then better able to see what produced the conflicts, and thus what needs to be changed. We can also see that what the colleagues share is that they are in a situation which produced such conflicts and that they can build upon that knowledge to help resolve their common problems.

3. Relations with other professionals

We have examined a number of cases in which social workers have worked with other professionals and have had some difficulties in those relationships because of perceived differences in the weights of their professional judgments. In *Depressed and ready to die*, the psychiatrist thought that the patient who did not want chemotherapy was therefore suicidal, and the psychiatrist's judgment was given significantly greater weight than the judgments of the other professionals, including social workers, concerned about the patient. The psychiatrist presumably took the judgment to be one about the patient's mental state, something she thought she was particularly well qualified to judge. The social workers thought the patient's not wanting chemotherapy was reasonable, given how little it would prolong her life, how painful it would be, and how it would require her to stay in the hospital when she could be home in a more familiar setting as she died. But there was no discussion between the psychiatrist and the social workers. The psychiatrist thought she was right and saw no need, apparently, to try to understand why the social workers thought she might be wrong or to explain to them why she thought she was right.

This case illustrates rather nicely the reasons why professionals in different areas ought to talk with one another, with mutual respect. The social workers were at least as well-positioned as the psychiatrist to judge what would be in the client's best interests, and so their understanding of the client's problems is relevant to deciding what to do. The psychiatrist ought to ask them their opinion if only because they have information relevant to her decision. But the woman was also their client, and because the psychiatrist's decision would make a difference to what they would need to do for the woman, the psychiatrist ought to consult with the social workers out of professional courtesy (see the Code of Ethics 2.03(a)). Their role with the woman would be far different were she forced to have chemotherapy, against her will, than if she were to go home to die in peace.

The case also illustrates rather nicely the two sorts of problems that can arise when the concerns of professionals in different fields overlap.

First, the social workers in this setting do not have the power to overrule the decision of another professional, ensure that the professional consider their concerns in making a decision, or even encourage the other professional to talk with them. The structure of the hospital setting was such that the psychiatrist could ignore them completely and make a decision that would stick, whatever the social workers might think. So one problem that arises when professional concerns overlap is that sometimes nothing about the situation requires that the one professional communicate with the other. Or, to put it from the perspective of the social workers in this case, the psychiatrist had complete control over what happened to their client in a situation where, once the psychiatrist's decision was made, their relation to the client changed. The psychiatrist had power, and they thought they had little, if any (see the Code of Ethics 2.03(b)).

Second, the competencies overlap. Judging what is in the client's best interests is not exclusively a matter for the psychiatrist because social workers are also trained to assess both what a client wants and what is in a client's best interests. Indeed, the social workers may be better positioned than a psychiatrist to determine what is in the client's best interests because they were able to take in far more relevant information and have a much better feel for the life of the client outside the hospital. The psychiatrist may not wish to accept this claimed overlapping of competencies, but if she does not, the social workers are equally entitled to claim they are competent and the psychiatrist is not. What this case sadly illus-

trates is that sometimes different sorts of professionals working together on a single case do not work together for their single client's best interests.

Consider this very similar sort of case:

4.8 Attention deficit disorder

Mark is an eighth-grader with an attention deficit disorder. He has a high I.Q., and when he is on medication, he is extremely well-behaved and productive. But he does not now take his medication regularly. He is doing this as a form of rebellion, it seems, and that is what those his age are likely to do. So he is sometimes inattentive and disruptive in class.

His teacher hits him on the head with a folded up paper when he is acting up, and it is not just harmful to him, but embarrassing and ineffective.

Mark told his school social worker, Janet, who is new to the job. She is unsure what to do. She can tell Children's Protective Services, or the principal, or talk to the teacher. Anything she does must be done carefully. She cannot be in the classroom all the time, and 'when the door is closed to the classroom, the teacher has the power.' But it is clear that the method the teacher has adopted to 'control' Mark's behavior is counter-productive.

Janet faces a delicate problem here. As a school social worker, she can only work with students through teachers, and she is not able to be in the classroom all the time to monitor the teacher's behavior. In addition, whatever she does in this case will have an impact on future cases regarding other teachers. As she said in further explaining her problem, 'If you alienate teachers, it becomes a very difficult thing to be able to work things through.' In addition, as she goes on to point out, 'There are a lot of different ways you can abuse a kid without actually being able to be reported on.' So she is concerned that trying to help Mark by approaching the teacher may backfire. The teacher may stop hitting Mark, but continue to abuse him in more subtle ways.

All this suggests that Janet ought to talk to the teacher first and do so very carefully -- so as not to antagonize her (see the Code of Ethics 2.03(a)). And we should emphasize Janet's problem. She has to tell another professional that what that professional is doing, as a professional, in her own classroom, is not right.

This case illustrates more clearly than any other we have examined the importance of the fifth step in our method for resolving ethical problems:

(5) Determine how to do what ought to be done in a way that will itself produce more good than harm.

For it is how Janet now proceeds, having decided she ought to talk with the teacher, that will make all the difference both to how Mark is treated and to how other students Janet may be concerned about will be treated.

Talking with other professionals is always a delicate matter, as we pointed out in *Peers?*, and whenever there are problems in a case involving more than one professional, from the same discipline or from several, we should look to determine if one issue concerned how the professionals approached one another. In *Depressed and ready to die*, for instance, it may be that the social work professionals did not proceed to talk with the psychiatrist in a way that would help them with their position. We cannot know from the facts we have.

In this next case, this general issue of how to talk with another professional is even more complicated:

4.9 *First grader*

Jerry was referred to the school social workers the second day of school by a teacher who 'knew his older brother and had had run-ins with the child's mother and didn't like the way it came out.' Mike was the social worker assigned to assess the boy, and though he decided that the boy was a kinesthetic learner, having to touch everything to learn anything, he also decided that with some effort, the boy could be taught to behave as the teacher wanted.

Mike put together a program for the teacher with a check sheet where Jerry would receive points for behaving in certain ways and not behaving in other ways. The teacher filled it in, and he took it home every day. His mother signed off on it, and Jerry's behavior began to come under control.

But the teacher still was not happy because, though Jerry was improving, he was not 100% better. She wanted him to be certified as emotionally impaired. That would mean that he would then be removed from her classroom.

Mike interviewed the parents, the teacher, and Jerry again, and he found that Jerry was able to develop and maintain relationships, and he did not act out outside the classroom. So he was not emotionally impaired. 'Actually,' Mike said, 'he's a pretty happy little kid.'

The teacher was upset. She dropped the program Mike had developed, and she put Jerry 'in a box' -- behind a set of room dividers so that he was screened off from the rest of the children. She had the support of the principal, and so finally Mike certified Jerry as emotionally impaired to get him out of the bad situation.

Labelling a child as emotionally impaired is not anything one ought to do lightly. The labelling will stick with him for the rest of his school days -- and beyond. So Mike wanted to avoid labelling Jerry if he could. One option would have been to go over the teacher's head to the principal, but that was foreclosed by the principal's siding with the teacher. Another option would be to go over the principal's head to the school district's administration.

Appealing to the administration is not likely to be effective because, just as the principal backed the teacher, so the administration is likely to back the principal. After all, those in the administration can say, 'Those best able to know whether this student can be taught in class with the rest of the children are the teacher and the principal, not a social worker who is not in the classroom all the time. So we must stand by their professional judgments.' Besides, appealing beyond the principal would likely poison the relations between Mike and the teacher and the principal for any other work with Jerry or other students.

The problem Mike faced was that he either had to work it out with the teacher or label Jerry emotionally impaired. His failure to work it out with the teacher left him with no good option. What is sad about the case is that though Mike has the expertise to determine what is in Jerry's best interests, he ends up making a judgment about Jerry that he does not agree with. He feels he has no option because the teacher is the one who has the power to determine what to do for, or to, the child and the teacher will not do what is necessary to further what Mike thinks is in Jerry's best interests (see the Code of Ethics 2.03(b)).

The case illustrates that when things go awry between professionals, there may be no good solution. This seems particularly so when one sort of professional has power and the other has the relevant competence. But the case also illustrates how important it is to

work to achieve the ideal of communication we have set out in this chapter.

The same sort of relation we would want to hold between social work practitioners should hold between professionals from different fields who ought to be working together for a client's benefit. Professionals ought to explain their actions when what they do affects the legitimate concerns of other professionals. They ought to listen to the concerns of those other professionals. And they all ought to strive to work out with each other what is best for their client, giving due weight to all professional judgments.

Questions

- (1) The fifth step of the method of tracking harms requires that we consider how it is that we are going to do what we have decided we ought to do. The issue it raises of the manner of our doing what we ought to do applies to the process of reaching a decision as well as to doing what we have decided, through that process, we ought to do. When that process best involves communicating with another, we need to consider how to speak to the other person. Confronting someone is not the same as enquiring of someone. Examine the ethical aspects of an example from your own experience of a good conversation. How did you each treat the other? For instance, did you listen? Did you interrupt? Etc.
- (2) What deference if any ought we -- ethically -- to give education and experience in coming to a decision about what we ought to do? Consider what appear to be the two extremes regarding how Margaret might respond to the boy's therapist in *4.1 Peers?* She might do exactly what he says, or she might ignore him completely. Could either response be correct? If so, why; if not, why not? What response would be ethically correct? Why?
- (3) Why ought we to talk a case through with others when we can?
- (4) Judging whether someone is competent at something can be difficult to do. Take what may seem a simple example such as throwing a ball. Should we judge competence in terms of the effect -- the ball gets where it had to go? In terms of manner -- the ball is thrown gracefully? In terms of how well the thrower understands what it is to throw a ball -- and so is self-conscious about how to improve a throw? Now apply the same model to social work practice. Are we to judge social workers in terms of the results they obtain? The manner in which they go about proceeding with their work? Their capacity to understand why they are doing what they are doing and why things go wrong when they go wrong? Or some combination of all three? And if it is the latter, what counts the most ethically -- and why?
- (5) Someone who was competent may become incompetent through failing to learn new skills, or by becoming too jaded in the use of old skills, and so on. Suggest ways to ensure that social workers are competent and remain competent. It might help here to compare the situation of social workers with that of teachers. How are we to ensure that they are competent and remain competent?
- (6) In regard to (5), how are we to ensure that social workers are competent and remain competent without intruding on the privacy of their relationship with their clients? Without insulting them by presuming that they have become incompetent and must prove their competence?
- (7) A single failure can be explained away as a lapse, but we take a pattern of failures as a sign of a deeper problem. With this in mind, examine Mary's reaction to the judge's decision in *1.2 Dancing the legal dance*. Would she be justified in trying to change the system? If so, why? If not, why not?

- (8) When we are faced with a problematic colleague or employee, as Betsey was in 4.4 *Bending over backwards*, we need to follow a set procedure to ensure that we are treating the colleague or employee fairly. Lay out the steps of the procedure and explain for each of them why they are essential if we are to be ethical.
- (9) Lay out the four ways in which we can fail to reach agreement even when we communicate well with colleagues. Taking each of the four ways, use cases from the book or from your own experience in which a failure to reach agreement occurred and show how agreement could have been reached. In other words, how do we rectify such failures to reach agreement?
- (10) As 4.5 *Value Judgments* illustrates, cases of spousal abuse can be particularly difficult for social work colleagues. These are the sorts of cases where there is likely to be much disagreement about the means to achieving an acceptable end. Lay out the alternative ways we might proceed to handle a case of spousal abuse and then lay out and assess their strengths and weaknesses.
- (11) One of the problems Betsey had in *Bending over backwards* was that her counterpart at Jonathan's former agency was not open with her about Jonathan's problems. How can someone like Betsey ensure either that such a situation does not arise or that, if it does, she can double-check? In other words, what procedures might we put in place to ensure that such a consequence as hiring a problematic employee because of a former supervisor's recommendation does not occur?
- (12) What is harassment? Explain why a single act is sometimes sufficient to justify harassment and sometimes not.
- (13) 4.7 *Lying about salaries* illustrates well the problems created by keeping private information about about such an agency matter as salaries. But making public such information has its downsides too. Explain what the problems are and then consider ways to prevent or mitigate the problems that arise from disclosure or from confidentiality. For instance, would it help for the director to turn this problem over to the employees, asking for their solution as to how to mitigate the harms arising from the inequities?
- (14) We have considered cases where a social worker has had professional relations with a psychiatrist and with teachers. Describe a case -- real or imagined -- that could arise between a social worker and some other kind of professional and then consider whether the nature of the other professional makes a difference as to how the social worker ought to work to resolve the problem. Does it make any difference, for instance, whether the other professional is a psychiatrist or a teacher? If so, why? If not, why not? What does make a difference, that is, if anything?