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## ETHICS—LAW AND SOCIAL WORK: RECONCILING CONFLICTING ETHICAL OBLIGATIONS BETWEEN TWO SEEMINGLY OPPOSING DISCIPLINES TO CREATE A COLLABORATIVE LAW PRACTICE

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ETHICS—LAW AND SOCIAL WORK: RECONCILING CONFLICTING  
ETHICAL OBLIGATIONS BETWEEN TWO SEEMINGLY OPPOSING  
DISCIPLINES TO CREATE A COLLABORATIVE LAW PRACTICE

*Premela Deck* \*

*Today, mere knowledge of the law and judicial system is usually insufficient to zealously advocate for our clients. Legal disputes are rarely centered upon only legal concerns. An understanding of the importance of mental and emotional stability as well as interpersonal dynamics are frequently required in order to properly support our clients, advocate for them, and create future plans that will keep our clients out of the judicial system. As a result, many law schools offer joint degree programs embracing law and social work. In other cases, practicing attorneys and law firms enlist the help of trained professionals, many of whom are social workers. However, the law and social work professions are often at odds with one another with regard to advocacy tactics and ethical obligations. Recognizing the benefits of an interdisciplinary practice requires an understanding of how to reconcile these sometimes-incompatible disciplines.*

INTRODUCTION

Attorneys and social workers are described as “helping professionals.”<sup>1</sup> Members of both professions seek to aid clients in navigating tumultuous times, improve personal and professional

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1. Alexis Anderson, Lynn Barenberg & Paul R. Temblay, *Professional Ethics in Interdisciplinary Collaboratives: Zeal, Paternalism and Mandated Reporting*, 13 CLINICAL L. REV. 659, 661 (2007).

relationships, and engage their clients in intensely private discussions in an effort to improve a client's situation. As a result, lawyers and social workers frequently have overlapping clients or even overlapping roles within society. For example, a client seeking the help of an attorney to defend against charges of drug possession, may also be seeking the help of a social worker in resolving their addictive behaviors, finding housing, or maintaining their employment. Lawyers and social workers may also interact with similar clients through the court system and the appointment of guardian ad litem ("GAL"). In Massachusetts, a GAL is typically an attorney, a mental health professional, or both.<sup>2</sup>

There are many ways in which social workers are more adept regarding client interactions than attorneys. Law schools typically do not train students in client interviewing or counseling<sup>3</sup> to the extent social work students are trained in these interactions.<sup>4</sup> Social workers are frequently more practiced with interviewing techniques, evaluation of client needs, crisis intervention, negotiations, and referrals.<sup>5</sup> A social worker is specifically trained in evaluating personality and mental status,<sup>6</sup> factors that significantly impact a legal proceeding.<sup>7</sup> In short, social workers are purposely trained to work with at-risk and vulnerable clients, while lawyers frequently have at-risk and vulnerable clients without

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2. Defining a GAL as a lawyer, appointed by the court to appear in a lawsuit on behalf of an incompetent or minor party. *Guardian*, BLACK'S LAW DICTIONARY (10th ed. 2014).

3. Laurie Shanks, *Whose Story Is It, Anyway?—Guiding Students to Client-Centered Interviewing Through Storytelling*, 14 CLINICAL L. REV. 509, 512–13 (2008) (illustrating that even experienced lawyers stick to a script during client interviewing and fail to acknowledge a client's individual circumstances).

4. Compare Scott Burnham, *UM Law Students Counsel Real Clients*, 22 MONT. LAW. 5, 5 (1997) (contending that skills training is often omitted from law school curriculum), and Paul Bergman & David Binder, *Taking Interviewing and Counseling Skills Seriously*, 8 T.M. COOLEY J. PRAC. & CLINICAL L. 325, 325 (2005) (stating that in clinical law courses "complex interviewing and counseling skills are either not generally taught or not generally taught well in practice"), with Peter C. Iverson, *Developing Social Work Interviewing Skills Through a Micro-Video Analysis Training Program*, 13 J. OF SOCIOLOGY & SOC. WELFARE 142, 146 (2015) (finding that a vital component of social work practice is client communication and these skills are taught in a variety of ways to social work students).

5. James L. Scherer, *How Social Workers Help Lawyers*, 21 SOC. WORK 279, 280 (1976).

6. Paula Galowitz, *Collaboration Between Lawyers and Social Workers: Re-Examining the Nature and Potential of the Relationship*, 67 FORDHAM L. REV. 2123, 2126 (1999).

7. Anderson, *supra* note 1, at 660.

the training needed to communicate with them.<sup>8</sup>

Collaboration between attorneys and social workers most often occurs during the representation of indigent clients, such as in legal aid services and public defender's offices. These specific clients may face an array of problems including housing issues and medical concerns that ultimately affect their legal situations. Consider for a moment a client who is homeless and requires the services of an attorney. It is unlikely that this client will prioritize appointments with an attorney when the client is otherwise concerned over where the client is sleeping that night or when the client is going to eat the next day. A social worker may be able to work with the client to remedy the housing concerns, for example, thereby allowing the client to focus with the attorney on their legal issues.

While the benefit to interdisciplinary collaboration may be evident, the execution of such collaboration may be challenging. These disciplines are seemingly in conflict regarding the roles of each profession, otherwise described as the advocacy stance,<sup>9</sup> as well as with their ethical duties to their client. An attorney is charged with advocating for a client's desires; however, as a social worker, the advocacy must be for the client's well-being. It is not uncommon for a client's desires to be in opposition to a client's well-being.<sup>10</sup> For those who are licensed both as an attorney and as a social worker, which ethical charge is paramount? Furthermore, when a licensed attorney and a licensed social worker are working as a team to provide a service to the same client, how should goals be prioritized?

In addition to the external conflict between professions at issue in this Article, there are also internal conflicts within each profession that contribute to the difficulty of collaboration between the professions. Within the social work profession, clients have a

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8. *Id.*

9. Anderson, *supra* note 1, at 660.

10. Most common examples come from the practice of family law, for example, it has long been known that victims of domestic violence frequently return to their abusers. See generally Sarah M. Buel, *Fifty Obstacles to Leaving, a.k.a., Why Abuse Victims Stay*, 28 COLO. LAW. 19 (1999), <http://www.sdcedsv.org/media/sdcedsvfactor360com/uploads/Articles/50Obstacles.pdf> [<https://perma.cc/2XAH-YEJV>]. Another example comes from representing children. See generally Barbara A. Atwood, *Representing Children Who Can't or Won't Direct Counsel: Best Interests Lawyering or No Lawyer at All?*, 53 ARIZ. L. REV. 381 (2011) (considering whether a child advocate should maintain a typical attorney-client relationship and advocate for the child's wishes, even if they are against the child's best interests).

right to privacy. Nonetheless social workers also have a mandatory obligation to warn third parties that have been threatened by their client.<sup>11</sup> These duties create ethical and legal conflicts<sup>12</sup> that are impossible to uphold simultaneously.<sup>13</sup>

Attorneys face a similar conflict within their profession. Attorneys have a strict duty of confidentiality because of the Attorney-Client Privilege,<sup>14</sup> however, they also have a permissive duty to warn third parties of the potential for bodily harm or death.<sup>15</sup> The permissive duty of an attorney compared to the social worker's mandatory duty creates conflict during collaboration. What happens when a social worker feels obligated to report on a shared client, but an attorney does not elect to exercise their permissive duty? Or, alternatively, if a social worker must report on a client and an attorney elects to report on the client, what considerations must the attorney undertake to determine that the ethical obligation of confidentiality is not breached? Given the nature of the advocacy stances and the stringent ethical obligations of both professions it appears inevitable that one profession would have to renege on certain professional obligations. Either a social worker would renege by not reporting, or an attorney would renege by reporting and breaching attorney-client privilege. There have been numerous articles published related to incorporating a social worker as part of a legal team;<sup>16</sup> however, literature is still lacking<sup>17</sup> regarding when an attorney, both in general and as part of a collaborative team, may exercise the permissive duty of Rule 1.6 of the Model Rules of Professional Conduct.<sup>18</sup>

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11. See *Tarasoff v. Regents of Univ. of Cal.*, 551 P.2d 334 (Cal. 1976).

12. *Id.*

13. Elizabeth Gaskill, *Duty to Warn*, NAT'L ASS'N OF SOC. WORKERS, Nov. 1996, <http://www.naswma.org/?1116> [perma.cc/3JTR-KLH4].

14. See *infra* note 18.

15. *Id.*

16. See generally Anderson *supra* note 1; Galowitz *supra* note 6; Maryann Zavez, *The Ethical and Moral Considerations Presented by Lawyer/Social Worker Interdisciplinary Collaborations*, 5 WHITTIER J. CHILD & FAM. ADVOC. 191 (2005).

17. The vagueness exhibited by Rule 1.6(b) of the Model Rules of Professional Conduct can be attributed in part to tension between a lawyer's duty to zealously advocate for their client and a lawyer's desire to be truthful and in part to a lack of uniformity between states. Emiley Zalesky, *When Can I Tell a Client's Secret? Potential Changes in the Confidentiality Rule*, 15 GEO. J. LEGAL ETHICS 957, 957 (2002). To further complicate the issue, confidentiality standards may vary between states and issues. For example, states vary on their mandatory reporting statutes. 1 THOMAS A. JACOBS, CHILDREN & THE LAW: RIGHTS AND OBLIGATIONS § 2:13 (2015).

18. See MODEL RULES OF PROF'L CONDUCT r. 1.6(b)(1)-(7) (AM. BAR ASS'N

This Article will analyze the orientation and advocacy stances of lawyers and social workers and the different ethical obligations developed to reflect these stances. Recognizing the benefit of collaboration, this Article will next consider three different models for creating an interdisciplinary team that appreciates and adheres to the differing advocacy stances and ethical obligations. Ultimately, as a member of a collaborative team, attorneys may need to consider when to breach their own ethical obligations, specifically as it applies to the Attorney-Client Privilege. As a result, this Article will offer a series of questions for consideration while reconciling the attorney-client privilege with the social worker's duty to warn.

### I. APPROACHES TO ADVOCACY

The role of the social worker juxtaposed with the role of the attorney causes collaboration tensions. While both professionals ultimately seek to aid the client, the different professional orientations and ethical mandates applicable to their interactions with a client may cause interdisciplinary anxiety.<sup>19</sup> By first analyzing the professional orientations or ultimate goals of these careers and then considering their respective ethical mandates, one

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2013).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

- (1) to prevent reasonably certain death or substantial bodily harm;
- (2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
- (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
- (4) to secure legal advice about the lawyer's compliance with these rules;
- (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
- (6) to comply with other law or a court order; or
- (7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

*Id.*

19. Anderson, *supra* note 1, at 661.

can facilitate a collaborative effort that respects both professions.

### A. *Client Desires*

Although lawyers and social workers may share clients, their professional objectives regarding work with their clients may differ dramatically.<sup>20</sup> Not surprisingly, lawyers typically limit their interaction with clients to considering “legal” issues of the individual client, while social workers are often credited with advocating for social justice for all.<sup>21</sup> Attorneys are largely governed by the American Bar Association Model Rules of Professional Conduct.<sup>22</sup> Rule 1.2 of the Model Rules states, “a lawyer shall abide by a client’s decisions concerning the objectives of representation . . . .”<sup>23</sup> Through this mandate, attorneys are charged with zealously advocating for their clients.<sup>24</sup> Because the lawyer must abide by a client’s objectives, this responsibility is advocating for the client’s interests.<sup>25</sup> At times, these interests may be adverse to the client’s overall well-being or perhaps to other parties’ best interests. Regardless, the attorney must still advocate for the client’s objectives and seek a result that the client believes is

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20. Jane Aiken & Stephen Wizner, *Law as Social Work*, 11 WASH. U. J.L. & POL’Y 63, 64–65 (2003).

21. *Id.*

22. The Model Rules of Professional Conduct are not binding because they are merely suggested rules. MODEL RULES OF PROF’L CONDUCT preface (AM. BAR ASS’N 2013). However, most jurisdictions have adopted the majority of the rules, if not all of them. 8 FED. PROC., L. ED. § 20:219 (2013). The American Bar Association provides a list of the states that have adopted the ABA Model Rules of Professional Conduct and the dates the rules were adopted. Center for Professional Responsibility, *State Adoption of the ABA Model Rules of Professional Conduct*, AM. BAR ASS’N, [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/alpha\\_list\\_state\\_adopting\\_model\\_rules.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/alpha_list_state_adopting_model_rules.html) [https://perma.cc/KVZ7-5BYF ] (last visited Apr. 12, 2016).

23. MODEL RULES OF PROF’L CONDUCT r. 1.2 (AM. BAR ASS’N 2013).

24. In the preamble to the Model Rules of Professional Conduct, lawyers serve four functions:

As advisor, a lawyer provides a client with an informed understanding of the client’s legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client’s position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client’s legal affairs and reporting about them to the client or to others.

MODEL RULES OF PROF’L CONDUCT pmbl. (AM. BAR ASS’N 2013).

25. While attorneys are charged with zealously advocating for the client’s objectives, attorneys do have the ability to take protective action if necessary. See MODEL RULES OF PROF’L CONDUCT r. 1.14. (AM. BAR ASS’N 2013).

advantageous, even if these objectives are detrimental to a third party.<sup>26</sup>

In contrast, a social worker must not only be aware of the client's interests, but also the interests of society as a whole.<sup>27</sup> The National Association of Social Work Code of Ethics states, "[t]he primary mission of the social work profession is to enhance human well-being and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty."<sup>28</sup> With this in mind, one can see a core difference between legal advocacy and social work advocacy. While the attorney is responsible for advocating for the client's wants and interests, the social worker is charged with advocating for the client's well-being and *best* interest as well as society's interests.<sup>29</sup> The social worker, therefore, may advocate for a client in a way that contradicts the client's stated interests.<sup>30</sup>

#### B. *Managing Extenuating Circumstances*

When faced with a client with emotional or interpersonal concerns, as most attorneys are, the attorney must acknowledge these concerns and work with the client to provide effective counsel. At no point does the attorney take on the role of a therapist to help the client work through the unresolved issues.<sup>31</sup> In contrast, when a client is seeking the services of a social worker, one can safely recognize that that client has emotional or interpersonal concerns.<sup>32</sup> Unlike the attorney, the social worker must take the time to help a client work through these concerns.<sup>33</sup> Here, the social worker fulfills a therapeutic role, whereas an attorney provides legal counsel despite these surrounding circumstances.

These extenuating circumstances provide a perfect example as

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26. MODEL RULES OF PROF'L CONDUCT r. 1.2 (AM. BAR ASS'N 2013).

27. Galowitz, *supra* note 6, at 2142.

28. See CODE OF ETHICS (NAT'L ASS'N OF SOC. WORKERS amended 2008), <https://www.socialworkers.org/pubs/code/code.asp> [perma.cc/VLA9-5QX6].

29. See Aiken & Wizner, *supra* note 20, at 65 (explaining that social workers focus on the client, family, and community in an effort to create social change).

30. Anderson, *supra* note 1, at 663.

31. *Id.* at 668.

32. "Social workers' primary goal is to help people in need and to address social problems." CODE OF ETHICS pmbl (NAT'L ASS'N OF SOC. WORKERS amended 2008), <https://www.socialworkers.org/pubs/code/code.asp> [perma.cc/VLA9-5QX6].

33. *Id.*



to why a collaborative effort may create better advocacy. Consider for a moment a mother whose children were taken away due to substance abuse. The mother hires a lawyer to help her get custody of her children. The lawyer must zealously advocate for the mother's interests, even if the mother having custody is not in the best interest of the child. If the lawyer is successful in getting the children back with the mother, what is preventing the children from getting taken away again? Have the triggers that caused the mother to abuse substances been addressed or removed? Have proper support systems been put into place? Without a social worker utilizing systems theory by addressing the circumstances that contribute to the legal proceeding, it is difficult to prevent future interaction with the judicial system.<sup>34</sup> Because of their different orientations, advocacy stances, and goals, attorneys and social workers address and place emphasis on extenuating circumstances differently.<sup>35</sup> As a result, collaboration between an attorney and a social worker may allow the client to not only regain custody, but to keep custody.

### C. *Similarities in the Roles*

While there are significant differences in the roles of these professions, there are also redeeming similarities that make collaboration possible. Generally, both lawyers and social workers act "as counselors, advisors, and advocates for their clients."<sup>36</sup> Both lawyers and social workers typically use a problem-solving approach to resolve issues and set goals.<sup>37</sup> Additionally, both

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34. See generally BRUCE D. FRIEDMAN & KAREN NEUMAN ALLEN, *ESSENTIALS OF CLINICAL SOCIAL WORK* (2014). By utilizing a systems theory approach, social workers address the client's problem by looking at both the immediate causes of the issue as well as the surrounding circumstances, including the community, family, and other possible triggers. *Id.* at 3. For example, in analyzing recidivism rates in ex-offenders, one study found five contributing themes for poor success rates: "social stigma as a barrier, lack basic needs, effects of poverty, community ties, and unrealistic preparedness." Paige Paulson, *The Role of Community Based Programs in Reducing Recidivism in Ex-Offenders 1-2* (2013) (unpublished MSW Clinical Research Project, St. Catherine Univ./Univ. of St. Thomas School of Social Work) [http://sophia.stkate.edu/cgi/viewcontent.cgi?article=1249&context=msw\\_papers](http://sophia.stkate.edu/cgi/viewcontent.cgi?article=1249&context=msw_papers) [https://perma.cc/Q4AV-JM3D]. A social worker tasked with addressing these themes may be successful in preventing recidivism.

35. Aiken & Wizner, *supra*, note 20 at 72-73 (noting that lawyers are taught to be legal evaluators of a case and governing law while social workers are taught to develop cultural competence to address varying client needs).

36. Anderson, *supra* note 1, at 665.

37. Brigid Coleman, *Lawyers Who Are Also Social Workers: How to Effectively*

professions “strive to uphold fundamental societal values and promote public service.”<sup>38</sup> More specifically, both professions are charged with eliminating conflict and preserving confidentiality.<sup>39</sup> The parallels between law and social work are more pronounced when comparing a social worker with a public service attorney.<sup>40</sup> Specifically, both professionals advocate for indigent clients and societal reform.<sup>41</sup> Recognizing these similarities, it is foreseeable that social workers and attorneys may seek to unite their skillsets to influence change on a micro level with individual clients and on a macro level with societal reform.<sup>42</sup>

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*Combine Two Different Disciplines to Better Serve Clients*, 7 WASH. U. J. L. & POL’Y 131, 137 (2001), [http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1541&context=law\\_journal\\_law\\_policy](http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=1541&context=law_journal_law_policy) [perma.cc/ENH6-G2FW].

38. Anderson, *supra* note 1, at 665.

39. For social work code of ethics, see CODE OF ETHICS ES 1.07 (NAT’L ASS’N OF SOC. WORKERS amended 2008), <https://www.socialworkers.org/pubs/code/code.asp> [perma.cc/VLA9-5QX6].

(a) Social workers should respect client’s right to privacy. Social workers should not solicit private information from clients unless it is essential to providing services or conducting social work evaluation or research. Once private information is shared, standards of confidentiality apply.

(b) Social workers may disclose confidential information when appropriate with valid consent from a client or a person legally authorized to consent on behalf of a client.

(c) Social workers should protect the confidentiality of all information obtained in the course of professional service, except for compelling professional reasons. The general expectation that social workers will keep information confidential does not apply when disclosure is necessary to prevent serious, foreseeable, and imminent harm to a client or other identifiable person or when laws or regulations require disclosure without a client’s consent. In all instances, social workers should disclose the least amount of confidential information necessary to achieve the desired purpose; only information that is directly relevant to the purpose for which the disclosure is made should be revealed.

(d) Social workers should inform clients, to the extent possible, about the disclosure of confidential information and the potential consequences, when feasible before the disclosure is made. This applies whether social workers disclose confidential information on the basis of a legal requirement or client consent.

(e) Social workers should discuss with clients and other interested parties the nature of confidentiality and limitations of clients’ right to confidentiality. Social workers should review with clients circumstances where confidential information may be requested and where disclosure of confidential information may be legally required. This discussion should occur as soon as possible in the social worker-client relationship and as needed throughout the course of the relationship.

*Id.*

40. Coleman, *supra* 37, at 137–38.

41. *Id.* at 138.

42. Aiken & Wizner, *supra* note 20, at 73–74.

## II. ETHICAL OBLIGATIONS

Understanding the ethical obligations associated with the legal and social work professions is as important as understanding the orientations and roles when establishing a collaborative team approach to advocacy.<sup>43</sup> It is not simple to tease apart the ethical obligations from the orientation and roles of these professions, largely because the ethical obligations stem from their ultimate goals. While the orientations and roles of these professions represent the basic purposes of these professionals with their clients, the ethical obligations represent the boundaries by which the professionals achieve these goals.<sup>44</sup> For example, the attorney's duty to zealously advocate for the client may be seen as part of the attorney's role as well as an ethical obligation. This section of the Article will discuss the privileges and responsibilities attorneys use to allow them to fulfill their role and zealously advocate for their clients and how these privileges differ from that of the social worker-client relationship.

### A. Attorney-Client Privilege

One of the most well-known and deeply entrenched privileges in today's society is the attorney-client privilege.<sup>45</sup> This privilege developed to encourage open, honest, communication between clients and their attorneys.<sup>46</sup> In *Suffolk Construction Co., Inc. v. Division of Capital Asset Management*, the Supreme Judicial Court of Massachusetts wrote:

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We believe that teaching law students about the role of lawyers in challenging injustice and working for social change is an appropriate—indeed, obligatory—concern of legal education. Social justice education has the potential for inspiring students of law to engage in committed social work on behalf of the disadvantaged and powerless. We are not saying that all lawyers can or should be social workers. We are only saying that social work skills and values, and the social work commitment to social and economic justice, should be part of the lawyer's repertoire of skills, values, and commitments.

*Id.*

43. Sara R. Benson, *Beyond Protective Orders: Interdisciplinary Domestic Violence Clinics Facilitate Social Change*, 14 CARDOZO J.L. & GENDER 1, 12–13 (2007) (noting the several ethical concerns to be mindful of when creating a multidisciplinary law practice or clinical experience for students).

44. See generally Zavez *supra* note 16 (describing “ethical parameters” of an attorney and of a social worker, when involved in an interdisciplinary team).

45. See *Upjohn Co. v. United States*, 449 U.S. 383, 389 (1981) (“The attorney-client privilege is the oldest of the privileges for confidential communications known to the common law.”).

46. *Id.*

One obvious role served by the attorney-client privilege is to enable clients to make full disclosure to legal counsel of all relevant facts, no matter how embarrassing or damaging these facts might be, so that counsel may render fully informed legal advice.<sup>47</sup>

This privilege is not only to benefit the client, but also to benefit society as a whole. If communications between lawyer and client were discoverable, a client may not disclose necessary facts and circumstances to their attorney.<sup>48</sup> As a result, the advice the attorney gives based on the limited or perhaps even incorrect facts received from the client may not be the best available advice. Additionally, knowing that communications between client and attorney are confidential may encourage potential clients to seek early legal advice.<sup>49</sup>

#### B. Confidentiality

Inherent to the attorney-client privilege is the duty of confidentiality, which may also be found in the Model Rules of Professional Conduct Rule 1.6(a)–(b). Under this rule, “[a] lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).” As this rule states, information regarding the client cannot be revealed without client permission, meaning that the client is the holder of the privilege.<sup>50</sup> The attorney-client privilege is self-executing and cannot be waived by anyone but the holder of the privilege, unless permitted by paragraph (b) of Rule 1.6.<sup>51</sup>

It is important to note when considering a law firm or collaborative effort that the attorney-client privilege extends beyond the attorney and client to include all employees in the firm. This privilege prevents these employees, including support staff and non-lawyers, from revealing any confidential information or communications.<sup>52</sup>

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47. *Suffolk Const. Co., Inc. v. Decision of Capital Asset Mgmt.*, 870 N.E.2d 33, 38 (Mass. 2007).

48. *Upjohn Co.*, 449 U.S. at 389.

49. Douglas R. Richmond, *The Attorney-Client Privilege and Associated Confidentiality Concerns in the Post-Enron Era*, 110 PENN ST. L. REV. 381, 385 (2005).

50. See MODEL RULES OF PROF'L CONDUCT r. 1.6(b)(1)–(7) (AM. BAR ASS'N 2013).

51. *Id.*

52. MODEL RULES OF PROF'L CONDUCT r. 5.3 (AM. BAR ASS'N 2013).

Social workers do not have a long established social worker-client privilege as attorneys do with the attorney-client privilege.<sup>53</sup> That being said, the professional ethics of social workers recognize a duty to maintain a client's privacy and some states have statutorily adopted a privilege for clients of social workers.<sup>54</sup> In Massachusetts, a social worker-client privilege has been adopted; however, this privilege is not automatic like attorney-client privilege.<sup>55</sup> In other words, the court will treat communications between a social worker and client as unprivileged unless the client asserts their privilege.<sup>56</sup>

### C. *Social Worker Duty to Warn*

Important to the social worker-client relationship, and specific to mental health professionals, is the landmark California Supreme Court decision in *Tarasoff v. Regents of University of California*<sup>57</sup> in which the doctrine known as the duty to protect was established.<sup>58</sup> In this case, a patient, Prosenjit Poddar, sought psychological assistance from Dr. Lawrence Moore.<sup>59</sup> During their sessions, Poddar confided with Moore that he intended to kill a woman "readily identifiable" as Tarasoff.<sup>60</sup> Dr. Moore responded by notifying the police, resulting in a short detention of Poddar.<sup>61</sup> After Poddar's release, no one, including Dr. Moore, notified Tarasoff or her family members of the threat on her life.<sup>62</sup> On October 27, 1969, Poddar killed Tarasoff and her parents sued Moore.<sup>63</sup> The court found that mental health professionals have a duty to protect third parties as well as a duty to their patient.<sup>64</sup>

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53. The Supreme Court's decision in *Jaffee v. Redmond* acknowledged a privilege between mental health professionals and their clients; however, the limitations and the extent of the privilege were not discussed. See generally *Jaffee v. Redmond*, 18 U.S. 1 (1996).

54. 23 CHARLES ALAN WRIGHT & KENNETH W. GRAHAM, JR., *FEDERAL PRACTICE AND PROCEDURE* § 5429 (1980).

55. 49 HONORABLE PETER M. LAURIAT, S. ELAINE MCCHESENEY, WILLIAM H. GORDON & ANDREW A. RAINIER, *MASSACHUSETTS PRACTICE SERIES* § 4:10 (2008).

56. 14B HOWARD ALPERIN, *MASSACHUSETTS PRACTICE SERIES* § 10.97 (4th ed. 2007).

57. *Tarasoff v. Regents of Univ. of Cal.*, 551 P.2d 334 (Cal. 1976).

58. *Id.*

59. *Id.* at 340.

60. *Id.* at 341.

61. *Id.*

62. *Id.*

63. *Id.* at 339.

64. *Id.* at 353.

Therefore, unlike attorneys, mental health professionals have a duty to their clients as well as a duty to individuals threatened by the professional's client.<sup>65</sup>

Under the duty to warn doctrine, and in Massachusetts under Massachusetts General Law chapter 123 section 36B, mental health professionals have a duty to warn, or a duty to protect, third parties if (1) "the patient has a history of physical violence which is known to the [professional, (2)] . . . the professional has a reasonable basis to believe . . . there is a clear and present danger . . . the patient will attempt to kill or inflict serious bodily injury," and (3) the potential victim is reasonably identified.<sup>66</sup>

#### D. *Conflicting Confidentiality Rules*

Although both attorneys and social workers have a duty to maintain their clients' confidences, the differences between these professional privileges may cause concern in a collaborative effort. For example, consider an attorney in Massachusetts that represents a parent who abuses their child.<sup>67</sup> This attorney is not required to report reasonable beliefs of child mistreatment.<sup>68</sup> In fact, some scholars may argue that attorneys have a duty not to report their client, as attorneys should not behave in a way that adversely affects their client.<sup>69</sup> However, in most states social workers are mandated reporters.<sup>70</sup> This requires the social worker to report or cause a report to be made when they reasonably believe a child is being mistreated.<sup>71</sup>

In these cases, it may seem prudent only for the attorney to advocate for the parent. However, by removing the social worker from the case, the parent is denied services that may help to mitigate the legal issue as well as the personal issues.<sup>72</sup> For example, a social worker would help get the parent into a batterers'

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65. *Id.* at 347. See *Munstermann v. Alegent Health-Immanuel Med. Ctr.*, 716 N.W.2d 73, 81 (Neb. 2006). See CAL. CIV. CODE § 43.92 (Deering 2016).

66. MASS. GEN. LAWS ch. 123, § 36B (2016).

67. See generally Jacqueline St. Joan, *Building Bridges, Building Walls: Collaboration between Lawyers and Social Workers in a Domestic Violence Clinic and Issues of Client Confidentiality*, 7 CLINICAL L. REV. 403 (Spring 2001).

68. Lisa Hansen, *Attorneys' Duty to Report Child Abuse*, 19 J. AM. ACAD. MATRIM. LAW. 59, 69 (2004).

69. Timothy J. Pierce & Sally E. Anderson, *What to Do after Making a Serious Error*, 83 WIS. LAW. 2, 6 (Feb. 2010).

70. 2 DONALD T. KRAMER, LEGAL RIGHTS OF CHILDREN § 16:17 (2d ed. 2005).

71. *Id.*

72. See *supra* note 34 and accompanying text.

intervention program, follow up with the client, and report to necessary individuals that this parent is successfully participating in the program.

As a result, collaboration becomes difficult if the social worker and attorney both represent the abusive parent.<sup>73</sup> This scenario does not consider the internal conflict an attorney may feel when representing such a client.<sup>74</sup> It is unclear whether the attorney has a duty to protect the children at the expense of their client or, even if there is no duty to protect, it is unclear if an attorney should report the mistreatment at the expense of their client.<sup>75</sup>

### III. THREE INTERDISCIPLINARY MODELS

Recognizing the value of collaboration between attorneys and social workers as well as the hurdles that face collaboration, namely professional roles and ethics, it may seem impossible to create a successful practice that utilizes both disciplines. This section will consider three suggested models of interdisciplinary teams and how these models resolve collaboration concerns.<sup>76</sup>

To discuss the three different types of interdisciplinary models, consider the following example.<sup>77</sup> Suppose there is a man facing

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73. The attorney-client privilege generally prevents attorneys from disclosing suspected child mistreatment unless the attorney believes the abuse will continue. Social workers have no such limitation as they are required to report. Zavez, *supra* note 16, at 196.

74. Many attorneys can justify representing offensive clients by rationalizing that our criminal justice system is dependent on the burden of proof being on the prosecution. However, internally, attorneys may struggle with defending clients who they find personally offensive or even repugnant. An article titled *Defending the indefensible? Lawyers on representing clients accused of nightmarish crimes*, discusses the internal dialogue an attorney may have when representing a notorious criminal while upholding the judicial system. Rory Carroll & Simon Hattenstone, *Defending the indefensible? Lawyers on representing clients accused of nightmarish crimes* (June 27, 2014), <http://www.theguardian.com/law/2014/jun/27/lawyers-defended-toughest-cases-charles-manson-jon-venables-ted-bundy-charles-ng> [https://perma.cc/9MQU-9H74].

75. The uncertainty of reporting is a result of conflicting ethical rules, Attorneys are not mandated reporters. They are bound by the Code of Professional Responsibility to maintain the confidence or secret of their client, even if they may have committed child abuse or neglect. Beware, though, that the Code of Professional Responsibility also places an affirmative duty on attorneys to 'reveal information about a client to the extent it appears necessary to prevent the client from committing an act that would result in death or serious bodily harm.'

David N. Schaffer, *When DCFS Knocks: Representing A Client Accused of Child Abuse or Neglect*, 92 Ill. B.J. 26, 26 (2004).

76. Anderson, *supra* note 1, at 718.

77. This hypothetical was created solely for the purpose of this paper. While it is

criminal charges for substance abuse. In addition to his criminal charges, he is also involved in a probate proceeding in which his wife seeks sole physical and legal custody of their children. As a result of his substance abuse, he is homeless and without an income. More concerned over where he will sleep or find his next meal, this man frequently misses or reschedules his appointments with his attorney. Without contact with the client, the attorney struggles to create an appropriate legal defense that recognizes both the legal elements as well as the inequities facing the client. This man could benefit greatly from the assistance of both a lawyer and a social worker.

#### A. *The Consultant Model*

In the first model of collaboration, known as the consultant model, the lawyer enlists the help of the social worker in the capacity of a consultant only.<sup>78</sup> The lawyer may pose questions to the social worker, but does so in such a way as to maintain confidentiality.<sup>79</sup> For example, in our scenario described above, the attorney may say to the social worker, “I have a client who is homeless and struggles with substance abuse. This client frequently misses appointments with me and I often cannot get in contact with this person because of their homelessness. What can I do to help?”

Here, the social worker is not and will not provide direct services to the client, but instead may suggest services to the attorney.<sup>80</sup> The attorney has maintained confidentiality entirely, going so far as to not even reveal the gender of the client. The social worker may be able to coach the attorney on a specific line of questioning that may help the client make the attorney meetings a priority. Additionally, the social worker may be more familiar with services in the area that can help this client with their substance abuse, their homelessness, or perhaps both.

While the consultant model is successful in keeping the attorney and social worker roles and ethical obligations distinct, it

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derived from representing low-income clients in criminal show-cause hearings in Boston-area courts and it is not reflective of any one particular client.

78. *Legal and Ethical Issues in Social Worker-Lawyer Collaborations*, NAT'L ASS'N OF SOC. WORKERS, [https://www.socialworkers.org/ldf/legal\\_issue/200801.asp?back=yes&print=1](https://www.socialworkers.org/ldf/legal_issue/200801.asp?back=yes&print=1) [perma.cc/YWV7-ZM3B] (last visited January 24, 2016).

79. See St. Joan *supra* note 67, at 431 (describing a consultant relationship between lawyer and social worker as “arms-length”).

80. *Id.* at 431–32.



does create a few problems.<sup>81</sup> Primarily, in this scenario, the attorney is not only offering legal advice, but is also addressing the underlying issues that contributed to the legal issue. Many attorneys may feel they do not have the time or training to adequately assist the client in this manner. As a result of this, a social worker as part of the law firm may arguably be more helpful to both the client and the attorney.

### B. *The Law Firm Employee*

In the second model of collaboration, the social worker is an employee of the attorney or law firm.<sup>82</sup> To create the anticipated tension between these two professions, let us assume that the social worker, as part of the legal team, will be exposed to documentation and evidence that would reach the level of a reportable event under the social worker mandated reporter obligation.<sup>83</sup> For example, suppose the social worker learns while working at the law firm that a man frequently uses heroin while home alone with his newborn and four-year-old son. In Massachusetts, a social worker's failure to report such an incident may result in a fine, while in other states, the social worker may face civil or even criminal charges.<sup>84</sup>

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81. The problems stemming from the "arms-length" consultant model include providing services from separate locations, with separate goals, and separate perspectives. This set-up is conducive to maintaining separate practices, but not to establishing a collaborative practice. *Id.* at 433.

82. *Id.* at 431.

83. MASS. GEN. LAWS ch. 119, § 51A(a), as amended by St. 2011, c. 178, § 10. See also 14B MASSACHUSETTS PRACTICE SERIES, SUMMARY OF BASIC LAW § 11.2 (4th ed.).

Massachusetts statutory law requires that a member of certain professions and occupations immediately make a report to the Department of Children and Families when in his professional capacity, he has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; (iii) physical dependence upon an addictive drug at birth, (iv) being a sexually exploited child, or (v) being a human trafficking victim.

*Id.*

84. See, e.g., MASS. GEN. LAWS ch. 119, § 51A (2016) (requiring reporting of child abuse). Section 51A reads in relevant part as follows:

(a) A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; (iii) physical dependence upon an addictive drug at birth, shall immediately communicate with the [D]epartment [of Social Services] orally, and, within 48 hours, shall file a

However, as part of a law firm, the supervising attorney has an ethical obligation to ensure that any non-lawyer employees (the social worker, in this case) behave in such a way that is “compatible with the professional obligations of the lawyer” which would include adherence to Rule 1.6, regarding client confidences.<sup>85</sup> Complying with the attorney’s ethical rules may place a social worker in an uncomfortable position since compliance clashes with the social worker’s ethical obligations to promote well-being for all, including third parties.<sup>86</sup> Here, the law firm employee social worker must renounce social work ethical obligations for the betterment of the legal cause and may face possible civil or criminal charges as a result. It may be that the legal professional rules would protect the social worker, however, there is no authority stating that the social worker would indeed be protected.<sup>87</sup>

In this instance, the law firm may need to make the decision to bar the social worker from working with the client entirely, establish protocols to allow the social worker to work with the client but prevent the social worker from learning reportable information, or inform the client from the onset of the client’s involvement with the firm that the social worker is a mandated reporter and to gain the client’s consent to work with the social worker.<sup>88</sup>

### C. *The Consent Model*

In the third model of collaboration, a social worker would be working with a client in a therapeutic fashion and not as strictly part of a legal team.<sup>89</sup> This “consent collaboration” model does

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written report with the department detailing the suspected abuse or neglect; . . . (c) . . . [W]hoever violates this section shall be punished by a fine of not more than \$1,000. Whoever knowingly and willfully files a frivolous report of child abuse or neglect under this section shall be punished by: (i) a fine of not more than \$2,000 for the first offense; (ii) imprisonment in a house of correction for not more than 6 months and a fine of not more than \$2,000 for the second offense; and (iii) imprisonment in a house of correction for not more than 2½ years and a fine of not more than \$2,000 for the third and subsequent offenses.

See *id.*; see also MASS. GEN. LAWS ch. 19A, § 15 (2016) (requiring reporting of elder abuse and neglect).

85. MODEL RULES OF PROF’L CONDUCT r. 5.3 (AM. BAR ASS’N 2013).

86. See CODE OF ETHICS (NAT’L ASS’N OF SOC. WORKERS amended 2008), <https://www.socialworkers.org/pubs/code/code.asp> [perma.cc/VLA9-5QX6].

87. Anderson, *supra* note 1, at 701.

88. *Id.* at 710.

89. See generally St. Joan *supra* note 67. In a domestic violence clinic where both law students and students of social work participated in the clinic, social workers

have its benefits, as it allows the social worker and the attorney to work freely with the client to the full extent of their professional training. However, the obvious disadvantage to this model is that with the full extent of professional training comes the full extent of professional duties and obligations. Here, the social worker would be bound by their statutory duties to report abuse and/or neglect while the attorney would remain obligated to zealously represent and not adversely affect their client.<sup>90</sup> In the above hypothetical, reporting that our client used heroin while watching his young children will likely adversely affect both his criminal and probate proceedings and therefore the attorney would likely seek to maintain the client's confidence. However, the social worker, looking at the problem from a different perspective, would acknowledge a duty to society and to protect these young children and is likely to report the event.

#### IV. ATTORNEYS' DUTY TO WARN

As discussed in this Article and evidenced through the three models for collaboration described above, one of the most difficult elements in creating a collaborative effort is reconciling professional duties and obligations. These professional obligations hold lawyers and social workers to different standards, both from each other and from laymen. The duty to warn for mental health professionals, for example, created as a result of the *Tarasoff* case, establishes a duty specific to social workers where, generally, a person is not required to warn a third party of another's intention to harm that person.<sup>91</sup>

Thus far, this Article has explored creating a collaborative team by incorporating a social worker into the legal realm. The three suggested collaborative models largely concern ways to reconcile the ethical obligations of these professions by either overriding the social worker's duties, including the social worker as a non-lawyer member of the legal team, or by excluding the social worker from certain discussions that might trigger their

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were not part of the initial interview unless or until consent was given by the client. *Id.* at 415

90. Anderson, *supra* note 1, at 710.

91. RESTATEMENT (SECOND) OF TORTS §§ 314, 315 (AM. LAW INST. 1965); see also Davalene Cooper, *The Ethical Rules Lack Ethics: Tort Liability When a Lawyer Fails to Warn a Third Party of a Client's Threat to Cause Serious Physical Harm or Death*, 36 IDAHO L. REV. 479, 481 (2000) ("there are no reported cases where a court has imposed liability on a lawyer for failure to warn a third party of a client's threats to seriously harm or kill the third party.").

professional duties. However, it should not be unexpected that in certain instances both the social worker and the attorney will desire to report a client's behavior, regardless of the model of collaboration used.

An attorney may breach the duty of confidentiality if, under Model Rules 1.6(b), one of seven instances is present.<sup>92</sup> Most relevant of these instances is analogous to the social worker's duty to warn: "a lawyer may reveal information relating to the representation of a client to the extent the lawyer believes necessary . . . to prevent reasonably certain death or substantial bodily harm."<sup>93</sup> While this rule is similar to the social worker's duty to warn, the permissive element of the rule leaves the disclosure to the attorney's discretion.<sup>94</sup>

There are at least three reasons for a permissive element ("may") in Rule 1.6(b) as opposed to a mandatory ("must") element. First, the attorney is in a contractual relationship with the client and only the client.<sup>95</sup> The third party is not owed a contractual duty from the attorney and the attorney *is* (contractually) a layman with no duty to warn.<sup>96</sup> The second—and perhaps more convincing—theory for why attorneys should not have a duty to warn is that, as an advocate for their client, the attorney must act always on the client's behalf and not in opposition.<sup>97</sup> Third, there is an inherent tension within the obligations of an attorney. The attorney owes a duty to their client as an advocate, but the attorney also owes a duty to the court and the justice system as an officer of the court.<sup>98</sup> The permissive "may" in Rule 1.6 allows the attorney to weigh their roles as advocate and officer to make a decision most fitting for each

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92. See MODEL RULES OF PROF'L CONDUCT r. 1.6(b)(1)-(7) (AM. BAR ASS'N 2013).

93. *Id.*

94. 41 MASSACHUSETTS PRACTICE SERIES, APPELLATE PROCEDURE RPC R 1.6 (3d ed.) (stating a lawyer has "professional discretion" in revealing information).

95. 51 MASSACHUSETTS PRACTICE SERIES, PROFESSIONAL MALPRACTICE § 16.18 (quoting *DeVaux v. American Home Assurance Co.*, 444 N.E.2d 355, 357 (Mass. 1983)) ("In Massachusetts, it is still 'the general rule that an attorney's liability for malpractice is limited to some duty owed to a client . . . [and] [w]here there is no attorney/client relationship there is no breach or dereliction of duty and therefore no liability.'").

96. See *Lamare v. Basbanes*, 636 N.E.2d 218, 219 (Mass. 1994) (finding the court will not impose a duty of reasonable care on an attorney if such an independent duty would potentially conflict with the duty the attorney owes to his or her client).

97. Cooper, *supra* note 91, at 486.

98. *Id.* at 491.

individual scenario.<sup>99</sup>

In Massachusetts, the Bar Association Committee on Professional Ethics recognizes that decisions to breach the duty of confidentiality are complex and therefore the committee has decided that the breach of this duty, if made under a reasonable judgment, should not be punishable.<sup>100</sup> However, this committee has no binding authority and the Supreme Judicial Court of Massachusetts, the highest court in Massachusetts, has been silent on attorney duty or desire to warn.<sup>101</sup>

#### V. QUESTIONS TO CONSIDER FOR ATTORNEYS WISHING TO WARN

In order to ensure that the decision to breach confidentiality is made with reasonable judgment, an attorney should, at a minimum, follow three basic steps: consult Rule 1.6(b), counsel the client against the threatened action, and, if necessary, consider revealing only necessary information to a third party.

First, the attorney must determine that breaching confidentiality is in compliance with Rule 1.6(b).<sup>102</sup> With cases involving an attorney and social worker, it is most likely that the attorney may be considering breaching confidentiality due to concern for bodily harm or death. Therefore, the first step is for the attorney to consider if the threat to a third party was substantiated or merely an expression of exasperation, such as “I could just kill my wife.” In the latter case, the attorney should not breach the attorney-client confidentiality privilege.

If the client, instead of making an exasperated “I could just kill my wife” statement, makes a more alarming threat like “I have considered killing my wife,” the attorney should consider the threat more seriously. At this point, it still may not be sufficient to justify breaking the attorney-client privilege. However, the statement is

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99. Dana Harrington Conner, *To Protect or to Serve: Confidentiality, Client Protection, and Domestic Violence*, 79 TEMP. L. REV. 877, 882 (2006) (noting the conflict between duty to a client and duty to society, “doing what is right is not always as clear as it may seem”).

100. Mass. Bar Ass’n Comm’n on Prof’l Ethics, Formal Op. 90-2 (1990) <http://www.massbar.org/publications/ethics-opinions/1990-1999/1990/opinion-no-90-2>.

101. MASS. RULES OF PROF’L CONDUCT r. 1.6(b)(1)–(7) (MASS. SUP. JUD. CT. 2016).

102. *Commonwealth v. Perkins*, 883 N.E.2d 235, 236 (Mass. 2008) (citations, footnote and internal quotation marks omitted). In recognizing that one of “the highest duties an attorney owes a client is the duty to maintain the confidentiality of client information” revealing confidential information should only occur if permitted under Rule 1.6(b). *Id.* at 236.

alarming enough that the attorney should immediately address the issue by attempting to persuade the client not to carry out the threat.<sup>103</sup>

If at this point, after the attorney has addressed the scenario and attempted to convince the client to change his or her mind, the client still appears to be seriously considering the threat, the attorney may wish to breach the attorney-client privilege to seek protection for the third party.<sup>104</sup> However, the attorney should still recognize that they have a duty to their client and must limit what is revealed to only what is absolutely necessary to prevent bodily harm or death.<sup>105</sup>

An attorney can find additional guidance in determining whether or not to breach confidentiality, by looking to the statutory duty to warn for mental health professionals in their respective states. In Massachusetts, section 36B of the Massachusetts General Law Annotated chapter 123 provides the mental health professional duty to warn.<sup>106</sup> This statute requires professionals to consider the history of physical violence of the client, whether there is clear and present danger, and finally whether the intended victim is identifiable.<sup>107</sup>

### CONCLUSION

An interdisciplinary team comprised of lawyers and social workers may be able to provide better legal arguments and services to those who are suffering from contributing circumstances (lack of education, poverty, etc.) or mental illness as opposed to perpetuating a punitive system that ultimately leaves a person at

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103. Cooper, *supra* note 91, at 491.

104. While laymen, who learn of potential injury through no action or cause of their own, do not have a duty to warn a person of potential injury, there is developing tort law that holds professionals to a duty to warn standard, in some cases, this includes attorneys. Professor John M. Burman, *An Attorney's Duty to Warn*, 30-Feb WYO. LAW. 36, (2007).

105. *Id.*

106. Mandating that mental health professionals have a duty to warn third parties if:

the patient has a history of physical violence which is known to the licensed mental health professional and the licensed mental health professional has a reasonable basis to believe that there is a clear and present danger that the patient will attempt to kill or inflict serious bodily injury against a reasonably identified victim or victims and the licensed mental health professional fails to take reasonable precautions . . . .

MASS. ANN. LAWS ch. 123, § 36B(1)(b) (2016).

107. *Id.*

the mercy of legal elements. Social workers and attorneys frequently share clients, particularly indigent clients, who could benefit from the expertise from both disciplines. While both professions are helping professions, they are bound by different ethical obligations that may create collaboration tensions.<sup>108</sup> As a result, those seeking to combine services can consider several different models of collaboration and choose a model best fitting to their specific goals.

Combining law and social work services is not only beneficial to the client, but can also be extremely beneficial to the attorney and to the social worker. Collaboration efforts and fieldwork experiences are common practices for the social work student; however, the introduction of experiential learning and collaboration with interdisciplinary programs is relatively new to the legal education.<sup>109</sup> Students of law and students of social work can further their education by participating together in clinics that utilize legal and social work services.

Students of law can learn effective interviewing tactics from students of social work, while enhancing their own legal strategy by gaining an understanding and appreciation of a client's various problems.<sup>110</sup> Social workers are trained to assess the many factors that contribute to a particular situation and an awareness of these factors may help law students create better legal defenses or requests.<sup>111</sup> Social work students may also benefit from a joint learning experience. Many social work clients will face legal issues and an exposure to the legal system will only enhance a social worker's ability to relate to and assist their clients. Additionally, social workers are charged with advocating for the vulnerable and protecting against injustices.<sup>112</sup> By creating a relationship between law students and social work students, social workers can familiarize themselves with the legal remedies available to clients

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108. See generally MODEL RULES OF PROF'L CONDUCT r. 5.3 (AM. BAR ASS'N 2013); See also CODE OF ETHICS (NAT'L ASS'N OF SOC. WORKERS amended 2008), <https://www.socialworkers.org/pubs/code/code.asp> [perma.cc/VLA9-5QX6].

109. Joseph Kozakiewicz, *Social Work and Law: A Model Approach to Interdisciplinary Education, Practice, and Community-Based Advocacy*, 46 FAM. CT. REV. 598, 601 (2008).

110. Randy Retkin et. al., *Attorneys and Social Workers Collaborating in HIV Care: Breaking New Ground*, 24 FORDHAM URB. L.J. 533, 544 (1997).

111. *Id.* ("When assessing client needs, social work students are trained to adopt a global 'biopsychosocial' approach to care. This approach encourages practitioners to look beyond their clients' present problems and examine the various familial, social, and community forces in their lives.").

112. Aiken & Wizner, *supra*, note 20, at 65 (2003).

facing injustices.

Conclusively, collaboration between law and social work can be beneficial to clients, attorneys, social workers, and students. However, those seeking to join these two disciplines should proceed cautiously to avoid potential breaches of ethical obligations. To fully capitalize on the many benefits of collaborative work and in an effort to familiarize law and social work students of their differing ethical obligations, interdisciplinary studies and practices should be encouraged as students and mastered as practitioners.