

Ethics and the Texas Social Worker

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Ethics and the Texas Social Worker



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Chat Introductions



Name / Pronouns (if you choose)



Where are you located?



Area of practice



A topic or issue you hope we cover today

Today's Agenda

1. BHEC & TSBSWE: Rules and Updates
Case Scenarios: Rules Oriented
2. Ethics: Foundations and Concepts
Case Scenarios: Practice Oriented
3. Subpoenas
4. HIPAA
5. Chiles v Salazar
6. Tech Justice
7. Environmental Justice





SOCIAL WORK



DATA



KNOWLEDGE



ACTION

About the National Association of Social Workers



- The largest membership organization of professional social workers in the world
- 90,000 members
- 55 chapters over a shared leadership model
- NASW works to:
 - Strengthen and unify the profession, promote the development of social work, and advance social justice and social welfare



Rules and Laws

TSBSWE & BHEC





Consolidated Rulebook for Social Work

Behavioral Health Executive Council

Since the council's inception, the rules have shifted from broad professional guidelines to high-specificity mandates. As of January 2026, there have been significant structural changes to how supervision and out-of-state practice are handled.

Supervision



Supervision

§781.402 (Types of Supervision):

This is now the definitive list of what counts as supervision.

It distinguishes between

Administrative Supervision (job performance), **Clinical Supervision** (toward LCSW), and **Independent Practice Recognition (IPR)**.

Supervision

(1) Administrative or work-related oversight of an employee, contractor or volunteer that is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure. This supervision does not require recognition by the Council.

Supervision

(2) Clinical supervision of an LMSW in a setting in which the LMSW is providing clinical services. This supervision may be provided by a Licensed Professional Counselor, Licensed Psychologist, Licensed Marriage and Family Therapist, LCSW, or Psychiatrist. This supervision is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure.

Supervision

(3) Clinical supervision of an LMSW, who is providing clinical services and is under a supervision plan to fulfill supervision requirements for achieving the LCSW. This supervision must be provided by an LCSW who holds supervisor status.

Supervision

(4) Non-clinical supervision of an LMSW or LBSW who is providing non-clinical social work service toward qualifications for independent non-clinical practice recognition.

Supervision

(5) Council-ordered supervision of a licensee by an approved supervisor pursuant to a disciplinary order or as a condition of new or continued licensure.

Supervision

A licensee with supervisor status may perform the following supervisory functions.

- (1)** An LCSW may supervise clinical experience toward the LCSW license, non-clinical experience toward the Independent Practice Recognition (non-clinical), and Council-ordered supervision.
- (2)** An LMSW with the Independent Practice Recognition (non-clinical) or Advanced Practitioner (AP) recognition may supervise an LBSW's or LMSW's non-clinical experience toward the non-clinical Independent Practice Recognition, and an LBSW or LMSW (nonclinical) under Council-ordered supervision.
- (3)** An LBSW with the non-clinical Independent Practice Recognition may supervise an LBSW's non-clinical experience toward the non-clinical Independent Practice Recognition, and an LBSW under Council ordered supervision

Supervision

§781.403 (The Supervision Process): This new section mandates that supervision is a contractual and evaluative relationship.

Supervision

1. The supervisor is obligated to keep legible, accurate, complete, signed supervision notes and must be able to produce such documentation for the Council if requested. The notes shall document the content, duration, and date of each supervision session.
2. A social worker may only provide supervision to a supervisee employed in another setting with written approval of the employer. A copy of the approval must be kept in the supervisor's files.
3. A supervisor who is otherwise compensated for supervisory duties may not charge or collect a fee or anything of value from the supervisee for the supervision services provided to the supervisee.
4. The supervisor shall ensure that the supervisee knows and adheres to the laws and rules governing the practice of social work.

Supervision

5. A supervisor shall not be employed by or under the employment supervision of the person who he or she is supervising.
6. A supervisor shall not be a family member of the person being supervised.
7. The supervisor and supervisee shall avoid forming any relationship with each other that impairs the objective, professional judgment and prudent, ethical behavior of either.

Supervision

All supervision toward licensure or specialty recognition must meet the following conditions.

Supervision

1. The supervisor shall keep a supervision file on each supervisee that includes:
 - A. a supervision plan;
 - B. a clearly defined job description and list of responsibilities for each of the supervisee's positions held during the supervised experience, including a discussion of any position or duties not subject to supervision;
 - C. a list of locations where the supervisee provides supervised services;
 - D. a log of experience and supervision earned by the supervisee that reflects the date and duration of each supervision meeting, the accumulated hours of non-clinical experience, and the accumulated hours of clinical supervised experience, if any;
 - E. an established plan for the custody and control of the records of supervision for the supervisee in the event of the supervisor's death or incapacity or termination of the supervisor's practice,
 - F. copy of written approval from the supervisee's employing agency agreeing to outside supervision, and
 - G. a copy of any written plan for remediation of the supervisee described in 781.403(d) of this section.

Supervision



2. A supervisor is responsible for developing a well- conceptualized supervision plan with the supervisee, and for updating that plan whenever there is a change in agency of employment, job function, goals for supervision, or method by which supervision is provided.
3. Before entering into a supervisory plan, the supervisor shall be aware of actual or intended service terms and conditions between a supervisee and their clients. The supervisor shall not provide supervision if the supervisee is practicing outside the authorized scope of the license. If the supervisor believes that a social worker is practicing outside the scope of the license, the supervisor shall make a report to the Council.
4. (Supervision toward licensure or specialty recognition may occur in one-on-one sessions, in group sessions, or in a combination of one-on-one and group sessions. Sessions may transpire in the same geographic location, or via audio, web technology or other electronic supervision techniques that comply with HIPAA and Texas Health and Safety Code, Chapter 611, and/or other applicable state or federal statutes or rules.
5. Supervision groups shall have no fewer than two supervisees and no more than six.

Supervision



6. The Council considers supervision toward licensure or specialty recognition to be supervision which promotes professional growth. Therefore, all supervision formats must encourage clear, accurate communication between the supervisor and the supervisee, including case-based communication that meets standards for confidentiality. Though the Council favors supervision formats in which the supervisor and supervisee are in the same geographical place for a substantial part of the supervised experience, the Council also recognizes that some current and future technology, such as using reliable, technologically-secure computer cameras and microphones, can allow personal face-to-face, though remote, interaction, and can support professional growth. Supervision formats must be clearly described in the supervision plan, explaining how the supervision strategies and methods of delivery meet the supervisee's professional growth needs and ensure that confidentiality is protected.

Supervision

7. Supervision toward licensure or specialty recognition must extend over a full 3000 hours over a period of not less than 24 full months for Licensed Clinical Social Worker (LCSW) or Independent Practice Recognition (IPR). Even if the individual completes the minimum of 3000 hours of supervised experience and minimum of 100 hours of supervision prior to 24 months from the start date of supervision, supervision which meets the Council's minimum requirements shall extend to a minimum of 24 full months.
8. Supervision shall occur in proportion to the number of actual hours worked for the 3,000 hours of supervised experience. No more than 10 hours of supervision may be counted in any one month, or 30-day period, as appropriate, towards satisfying minimum requirements for licensure or specialty recognition.

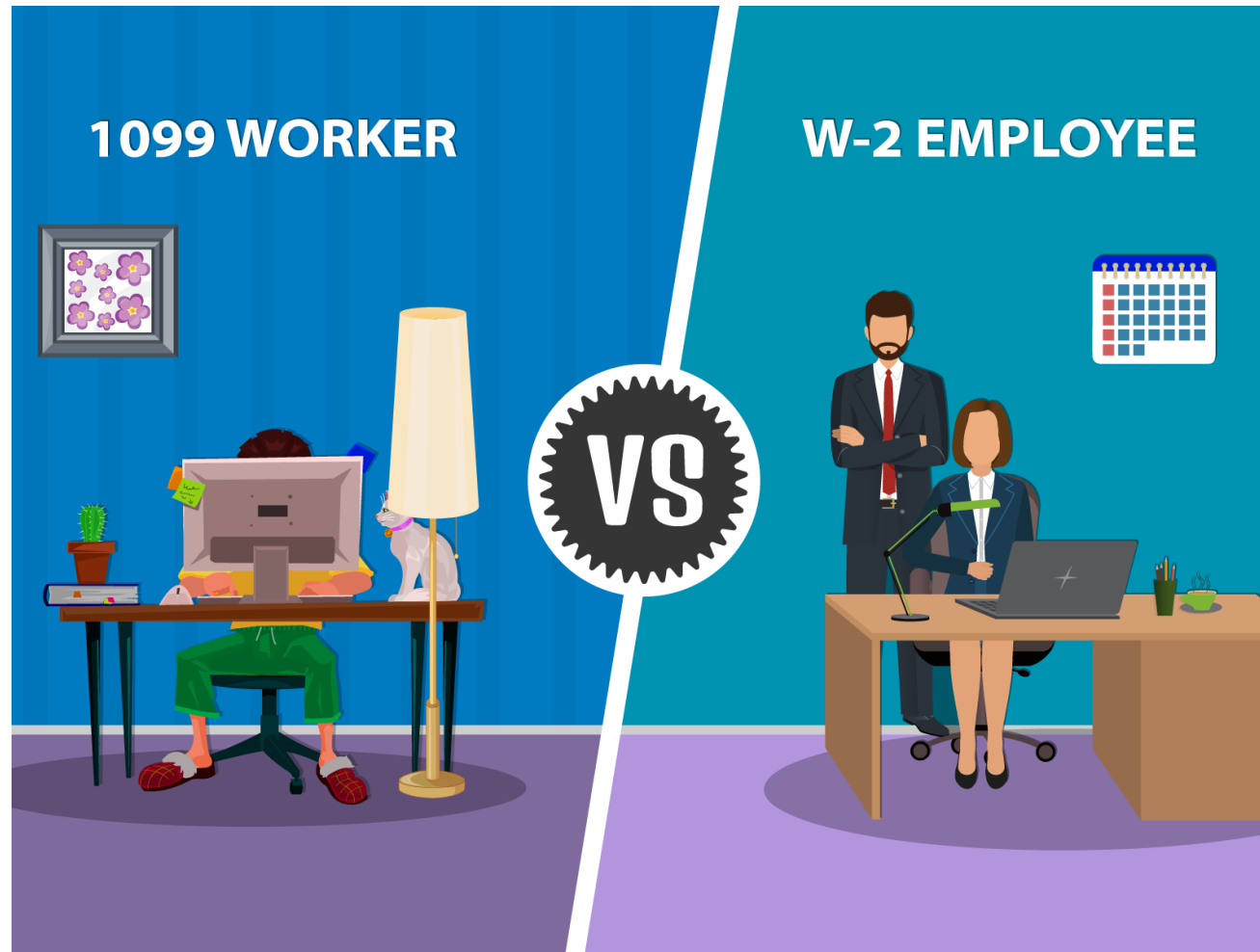
Virtual Practice



Virtual Practice



<https://bhec.texas.gov/tbhec/virtual-practice-and-mobility-faqs/>





W-2 employees are staff members with taxes withheld by employers, offering stability and benefits. 1099 contractors are self-employed independent workers responsible for their own taxes and expenses.

W-2 may offer security, while 1099 provides flexibility and tax deductions.



The Board explicitly uses IRS guidelines to determine if a social worker is practicing independently (as a 1099 contractor) or under an employer's direction (as a W-2 employee). A social worker is considered to be under the direction of an agency and not practicing independently if the employer has the right to control the “means and details” by which the work is performed.



A social worker provides services under the direction of an employing agency, and is not practicing independently, when the employer has the right to control the means and details by which services are performed, regardless of whether the social worker is a full-time or part-time employee or is contracted for services. The Council will use guidelines developed by the Internal Revenue Service (IRS) and the Texas Workforce Commission, to demonstrate whether a professional is performing independent practice. Such guidelines include



1099-A

Behavioral control. An employer can control the social worker's behavior by giving instructions about how work gets done rather than simply receiving the end products of the work. The more detailed the instructions, the more control an employer exercises.



Financial control. The employer determines the amount and regularity of payment to employees. An independent practitioner typically negotiates a timeframe for completing work and receiving payment. Independent practitioners have more freedom to make business decisions that affect the profitability of their work, such as investing in equipment or renting an office. Employees typically do not invest their own finances into an employing agency. Employees are usually reimbursed for job-related expenses, whereas independent practitioners often must negotiate reimbursement as part of the total agreed compensation.



Relationship of the parties. The nature of the relationship between the employer and the social worker is usually outlined in a written contract with clear intent whether the employing agency has control over the social worker and whether the employer is assuming responsibility for the social worker as an employee. Signs that a social worker is an employee include: if the employment relationship is permanent or ongoing, if an employer gives the social worker employee benefits, and if the social worker is retained to perform key aspects of the employer's day-to-day business.

While 1099 status is permitted for many social workers, there are specific prohibitions and potential conflicts between Board rules and federal/state labor guidelines:

- **LMSW Restrictions:** A Licensed Master Social Worker (LMSW) who is working toward becoming a Licensed Clinical Social Worker (LCSW) is strictly prohibited from owning or operating a private practice to provide clinical services.
- **Unauthorized Independent Practice:** Non-clinical licensees who do not have the specific Independent Practice Recognition (IPR) or who are not under an approved non-clinical supervision plan may not engage in independent social work practice.
- **IRS Conflict Risk:** The Rulebook acknowledges that the Council's determination of a practitioner's status will rely on IRS and TWC guidelines. A conflict arises if an agency treats a worker as a 1099 contractor to avoid tax obligations, but the Board determines the agency exercises enough behavioral control that the worker is an employee. In such cases, the social worker might be found to be practicing without the required independent recognition if they are not truly under the direction of that agency.





CE Broker

BHEC FAQ's

Case Studies



The Ghost Supervisor

- **Focus:** *Administrative Code §781.402 & §781.403 (New 2026 Rules)*
- **Scenario:** An LMSW has been working at a high-volume non-profit for 18 months. They have a signed supervision plan with an LCSW-S on-site. However, the supervisor is often "too busy" for the weekly hour, frequently canceling or saying, "Just email me your questions." After 18 months, the supervisor leaves the agency suddenly without signing off on the final hours. The LMSW has no physical logs of the individual sessions, only a calendar of "scheduled" meetings.
- **The Ethical Dilemma:** Is the LMSW entitled to these hours? Who is at fault for the missing documentation under the 2026 "contractual" mandate?



The Vacationing Client

- **Focus:** *Telehealth & Jurisdiction (§781.303)*
- **Scenario:** A Dallas-based therapist is seeing a long-term client via telehealth. The client mentions they are calling from their family's summer home in Colorado for the next three weeks. The therapist, not wanting to interrupt progress, continues the sessions. During the second week, the client expresses active suicidal ideation.
- **The Ethical Dilemma:** Does the Texas license cover this session? What are the legal risks of a "wellness check" called into Colorado police by a Texas social worker?



The AI Note-Taker

- **Focus:** *Confidentiality & Technology (§781.301)*
- **Scenario:** Overwhelmed with paperwork, an LCSW begins using a popular AI transcription tool that "listens" to sessions and generates a clinical summary. The social worker ensures the client's name is never spoken, using only "The Client." However, the AI tool's Terms of Service state that data is used to "improve the model."
- **The Ethical Dilemma:** Has the social worker violated HIPAA or the NASW Code of Ethics (1.07 Privacy and Confidentiality)? Does "de-identifying" the name protect the practitioner if the narrative contains highly specific details?



The Phantom Referral

- **Focus:** *Dual Relationships & Boundaries (§781.304)*
- **Scenario:** In a rural Texas town, Dime Box, an LCSW is the only provider for 40 miles. Their child's teacher approaches them at a school function, disclosing that they are struggling with severe depression and want to start services. There are no other local providers with any availability, and the teacher doesn't have reliable internet for telehealth.
- **The Ethical Dilemma:** Is this a prohibited dual relationship under §781.304(1), or does the "Rural Necessity" exception apply? How do you maintain professional boundaries when your client is also your child's educator?



The Side-Hustle

- **Focus:** *Professional Integrity & Misrepresentation (§781.302)*
- **Scenario:** An LMSW starts a private Life Coaching business on the side while working a full-time job at a state hospital. On their coaching website, they list LMSW after their name to build credibility, but they tell clients they are "not performing social work" so they don't have to follow BHEC's supervision rules for private practice.
- **The Ethical Dilemma:** Can a social worker turn off their license? Under §781.302(g), does using the LMSW title automatically trigger board jurisdiction regardless of what the service is called?



Ethics

From Theory to Practice



CODE OF ETHICS

OF THE NATIONAL ASSOCIATION OF
SOCIAL WORKERS



NASW Code of Ethics (English)

NASW Código de Etica (Español)



The NASW standards concern the following general issues



Mistakes that might have ethical complications



Difficult ethical situations that have arguments for and against different courses of action



Ethical misconduct

How Does the Code of Ethics Guide Us?

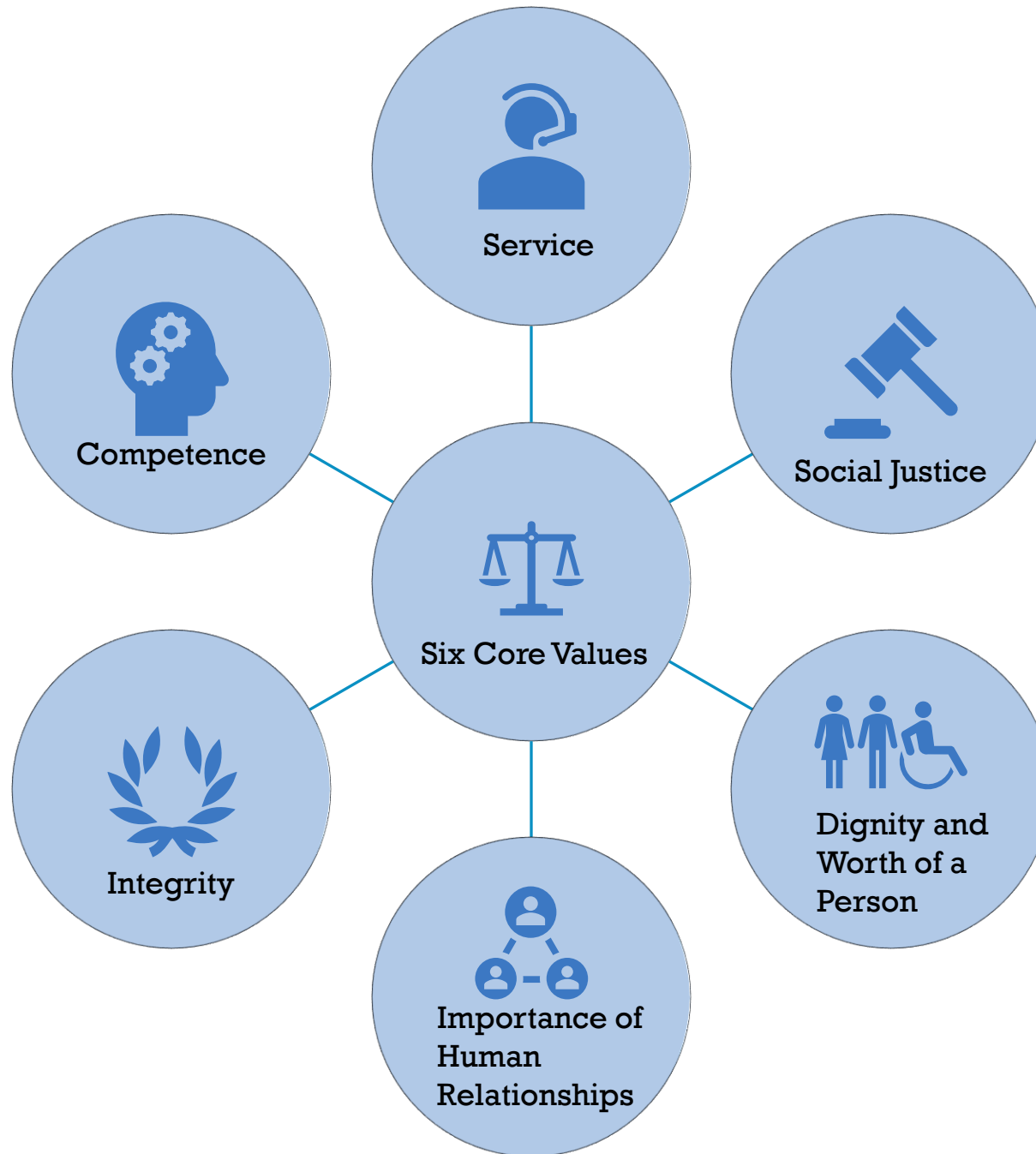
- The Code identifies core values on which social work's mission is based.
- The Code summarizes broad ethical principles that reflect the profession's core values and establishes a set of specific ethical standards that should be used to guide social work practice.

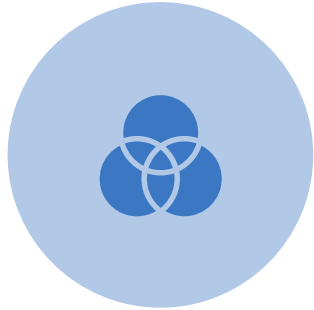
How Does the Code of Ethics Guide Us?

- The Code is designed to help social workers identify relevant considerations when professional obligations conflict or ethical uncertainties arise.
- The Code provides ethical standards to which the general public can hold the social work profession accountable.

How Does the Code of Ethics Guide Us?

- The Code socializes practitioners new to the field to social work's mission, values, ethical principles, and ethical standards.
- The Code articulates standards that the social work profession itself can use to assess whether social workers have engaged in unethical conduct. NASW has formal procedures to adjudicate ethics complaints filed against its members.





There are 155 specific NASW ethical standards



Designed to guide conduct and are aspirational in nature

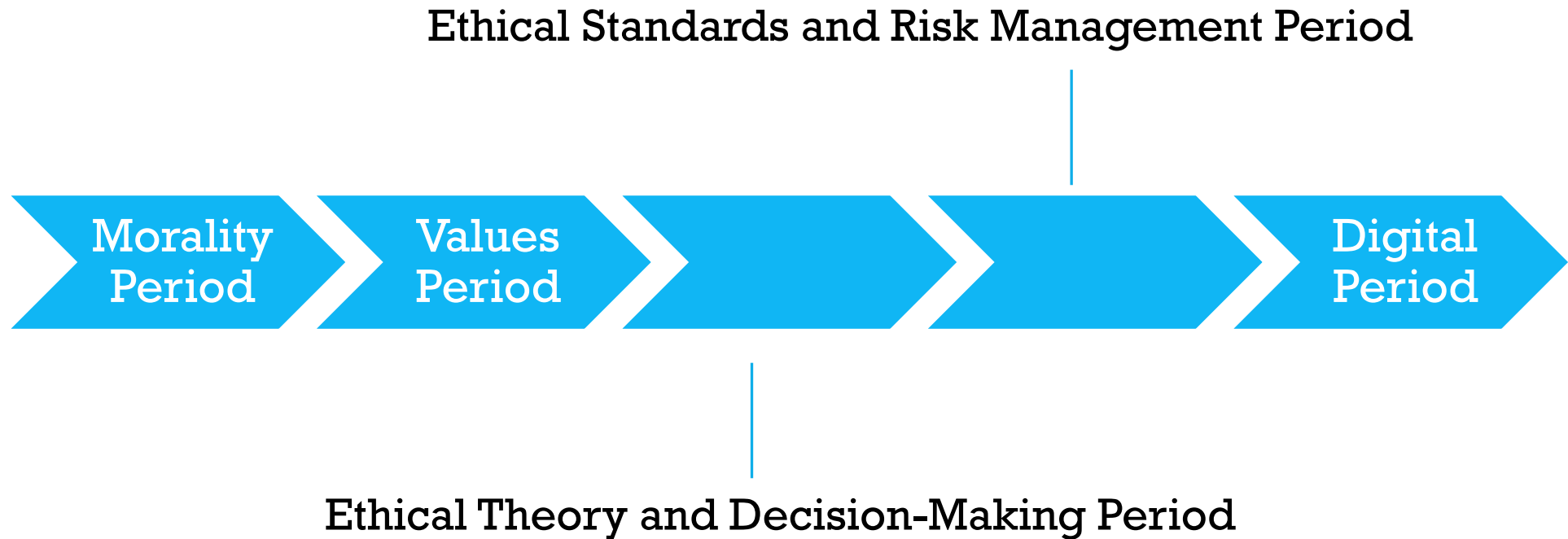


Reduce malpractice and liability risks



Provide a basis for adjudication of complaints against NASW members

EVOLUTION OF SOCIAL WORK ETHICS



Handling Ethical Dilemmas

1. **Consult the Code** - You should always have a copy of the NASW Code of Ethics and the TSBSWE Code of Conduct on hand for times like this. Spend some time reading through the codes. Identify the principles that come into conflict in the specific situation and why they are important to social work practice
2. **Review State and Federal Laws** - Be sure your decisions are sound, not only ethically but legally. Remember you can't help anyone if you put yourself in a position to lose your license or your freedom.

Handling Ethical Dilemmas



3. Seek Supervision - No matter how long you've been in the field, if you have doubts, questions, or just need a sounding board, seek supervision. Everyone needs a second opinion occasionally.

- Supervisors can be particularly helpful in guiding you to make the best decision possible in a difficult situation.
- If you have professional Social Work colleagues, seek consultation with them.
- If you are an NASW member you have unlimited free consultations with the Executive Director of NASW/TX as a member benefit.

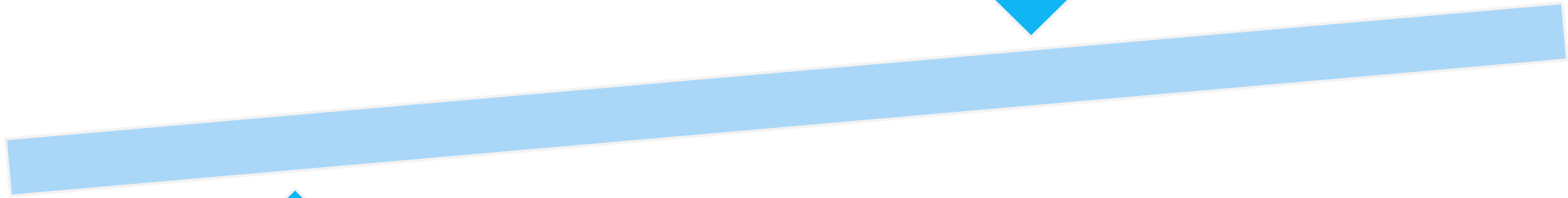
Handling Ethical Dilemmas

- 4. Consult NASW** (for members) - One of the most vital benefits to being a member of the NASW is having the support of a national organization to back up your work. You can contact the Office of Ethics and Professional Services at NASW for customized consultation, or the Texas Chapter Ethics Committee. You can discuss your situation confidentially, without using identifying client details, and get professional advice on how to handle things. Sometimes a neutral party is the best resource to help you consider things from a new perspective.

4/24/2026
Absolute ethical dilemmas in social work
involve direct conflicts between two or
more core professional ethical standards.

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Absolute is a "true" conflict



Approximate dilemmas are complex situations,
often merging professional ethics with personal
values, laws, or agency policies, where no
choice fully satisfies all ethical constraints.



Approximate is a "messy" conflict.



Absolute vs Approximate Ethical Dilemmas in Real Life



The Off-the-Clock Consultation

An LCSW is at a neighborhood BBQ in Austin. A neighbor mentions their teenager is struggling with self-harm and asks for a "quick professional opinion." The LCSW, wanting to be a good neighbor, spends 20 minutes giving specific clinical advice and resources.



The Off-the-Clock Consultation

- Under Texas law, if you provide clinical advice using your professional expertise, you may have established a clinical relationship.
- If the teenager acts on the advice and has a negative outcome, the LCSW may be liable to the Board for practicing without an intake, informed consent, or proper documentation—even if no money exchanged hands.



Self-Determination vs. Safety

A 75-year-old client in El Paso lives in a house with no running water and significant hoarding issues. However, the client is cognitively intact and adamantly refuses to leave or accept cleaning services, stating: "I want to die in my own home, on my own terms."

Self-Determination vs. Safety

1.01 Commitment to Clients

Social workers' primary responsibility is to promote the well-being of clients. In general, clients' interests are primary. However, social workers' responsibility to the larger society or specific legal obligations may, on limited occasions, supersede the loyalty owed clients, and clients should be so advised. (Examples include when a social worker is required by law to report that a client has abused a child or has threatened to harm self or others.)

1.02 Self-Determination

Social workers respect and promote the right of clients to self-determination and assist clients in their efforts to identify and clarify their goals. Social workers may limit clients' right to self-determination when, in the social workers' professional judgment, clients' actions or potential actions pose a serious, foreseeable, and imminent risk to themselves or others.





Self-Determination vs. Safety

- Where is the line between unsafe living and a person's autonomy?
- In Texas, Adult Protective Services (APS) has specific reporting thresholds.



AI Documentation Hallucination

An agency social worker uses an AI tool to summarize a 60-minute session into a 5-paragraph note. The AI accidentally "hallucinates" a detail, stating the client "admitted to using substances," which never happened. The social worker misses this error and signs the note. Months later, the note is subpoenaed in a custody battle.

AI Documentation Hallucination



Manga as Pornography

Background

- Hentai is a subgenre of Japanese anime and manga characterized by overtly sexualized characters and explicit sexual content. These materials may (but do not always) involve youth and children.
- Texas passed [SB 20](#) last year, which states that it is a crime **to knowingly possesses, accesses with intent to view, or promote obscene visual material containing a depiction that appears to be of a child younger than 18 years of age engaging in activities described by Section 43.21(a)(1)(B), regardless of whether the depiction is an image of an actual child, a cartoon or animation, or an image created using an artificial intelligence application or other computer software.**

AI Documentation Hallucination



Manga as Pornography

- “Obscene” means material or a performance that:
- (A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;
- (B) depicts or describes:
 - (i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or
 - (ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and
- (C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

AI Documentation Hallucination



Manga as Pornography

A client discloses that they read hentai materials that contain depictions of children engaged in sexual activity. They share that they have no interest in seeking out actual pornography, but like the illustrations and fantasy content. Based on the current laws in Texas, would the social worker be required to report this client to CPS?



Subpoena for an Undocumented Client

An LCSW at a community clinic in the Rio Grande Valley receives a subpoena from a state court requesting the mental health records of a client involved in a civil suit. The client is undocumented. The LCSW is concerned that releasing the records—which include the client’s address and employment history—could expose the client to federal immigration enforcement.



Subpoena for an Undocumented Client

- A social worker must comply with a valid court order. However, the **NASW Code 1.07(j)** mandates that social workers should protect confidentiality to the extent permitted by law.



Subpoena for an Undocumented Client

- Consider maintaining a **Safe Office** policy: not requiring staff to ask for or record immigration status unless it is a mechanical necessity for a specific benefit (like Medicaid). "Ethics through omission" (not writing it down if you don't have to) may be the best protection.

Social Media Request

A social worker in Odessa terminated services with a client three years ago. The termination was successful and positive. Today, the former client sends a "Friend Request" on Facebook and a "Follow" request on Instagram. The former client is now a prominent local advocate for mental health and wants the social worker to join a community task force.





Romantic Connection

A social worker in Austin starts dating someone they met on a dating app. After three weeks of dating, they realize that their partner's sister is a current, high-intensity client at the social worker's agency. The social worker is not the primary therapist, but they have access to the sister's files and occasionally see her in the lobby.



Romantic Connection

- Even if the social worker isn't the direct provider, this is a related party conflict. The social worker should disclose the conflict to their supervisor immediately,



Impaired Colleague

A social worker notices that a fellow director at their organization frequently returns from lunch smelling of alcohol and has started making significant errors in grant reporting and clinical oversight. The social worker is friends with this colleague and knows they are going through a difficult divorce.

Impaired Colleague



- In Texas, if you have direct knowledge of a colleague's impairment that poses a risk to clients, you have a **mandatory duty to report** to the Board if the colleague refuses to seek help or step down.
- **Code of Conduct:** “A social worker shall refrain from providing services while impaired by physical health, mental health, medical condition, or by medication, drugs or alcohol.”

Everything You Wanted to Know About a Subpoena*

*But Were Afraid to Ask

Responding to a Subpoena



Subpoenas



DO NOT DO NOTHING

- All social workers hopefully purchased professional liability insurance should have policy coverage that includes financial resources for legal representation related to a response to a subpoena for client records.
- The NASW Legal Defense Fund provides financial assistance for legal costs for members who are engaged in legal action that involved upholding standards of the profession such as the NASW Code of Ethics confidentiality provisions. Members of NASW who expend personal funds to block a subpoena may be eligible for LDF assistance.
- Social workers who need to locate an attorney may also contact their state or county bar association for a referral to an attorney with experience representing mental health providers.

Subpoena ad testificandum



Compels testimony

Subpoena duces tecum



Requires document
production



Subpoenas

- A subpoena is a mandate to provide evidence or testimony – but it is not a final ruling or order by a court on the legal requirement to provide information or admissibility of the evidence.
- Most subpoenas are issued by attorneys, and the legality of the subpoena has not been reviewed or analyzed by a judge prior to serving it on the social worker.
- Although some type of a response is required, a careful evaluation of the factors surrounding the subpoena is needed to determine the best course of action.

Subpoenas

- When responding to a subpoena for client information, it is the social worker will need to take into consideration several applicable standards, such as:
 - The NASW Code of Ethics
 - Federal HIPAA Privacy Regulations
 - State social worker – privilege laws
 - The client's stated intent regarding the possible disclosure of information

Subpoenas

- The NASW Code of Ethics requires social workers to wait until ordered by the court before disclosing information in legal proceedings, absent client consent or an imminent threat of harm. (Standard 1.07).
- Privilege is a right owned by clients to prevent their confidential information from being used in legal proceedings.

Subpoenas

- Absent client consent (or some legal exception), social workers have a duty to claim privilege on behalf of their clients to protect client information from release.
- In some types of cases, particularly where the client is a plaintiff, the client may have waived (or “given up”) the right to privilege by filing a legal claim that is based on emotional or psychological conditions, necessitating the release of mental health records as evidence.
- In instances where a client has waived privilege, it is still best for the social work to obtain a written consent to the release of information in order to document the client’s waiver.

Subpoenas

Client Consent Available

- Client consent is a highly accepted standard for releasing patient information, as articulated in the NASW Code of Ethics, state social worker laws and regulations, and HIPAA.
- When releasing information based on a subpoena, it is important to clarify with the client what information is contained in the record and to confirm that the client is prepared for the disclosure of detailed personal information in court. This assures that the client's signed consent is fully informed.
- A client's informed decision may be viewed as an exercise of self-determination, if a client is a legally competent adult, another principle articulated in the NASW Code of Ethics.

Subpoenas

No Client Consent

- The social worker may contact the attorney that issued the subpoena (preferably in writing) with a simple acknowledgement that the document was received and a general statement to the effect that information about all clients is confidential and privileged and cannot be released without written client consent or a court order. This puts the issuing attorney on notice that there may be a legal issue regarding compliance with the subpoena.
- In some instances, this is sufficient to compel the attorney to seek the necessary written consent and submit it to the social worker.

Subpoenas



- If a judicial order to produce the records or give testimony is issued by the court, social workers are obligated by the NASW Code of Ethics to request that the court limit the order as narrowly as possible and maintain the records under seal, unavailable for public inspection and/or to order that the attorneys involved return the records at the close of the case or provide a statement that the records have been destroyed.
- In the unusual circumstance that a social worker anticipates that a court order to disclose records may not meet legal requirements, it is necessary to be prepared in advance with legal counsel to appeal the order, as the timeframe for such appeals are typically very short.
- In most instances, compliance with a valid court order will not form the basis for a professional complaint against the social worker.

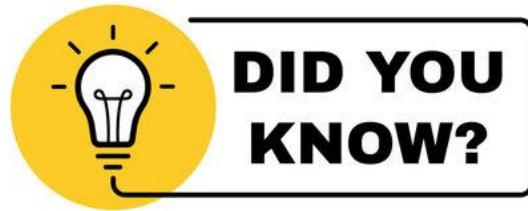
Subpoenas

■ Provisions for Psychotherapy Notes

- The term “psychotherapy notes” is specifically defined in the HIPAA medical privacy regulations as the “notes of a mental health provider documenting or analyzing the conversation during a counseling session” and that are maintained separately from the client record.
- Social workers should understand that although psychotherapy notes may be subpoenaed, a general consent or authorization to release all mental health information in the record is not sufficient to disclose separately maintained psychotherapy notes.
- If a clinical social worker possesses separate therapy notes, they may only be released if a second, separate signed authorization is provided by the client. If a separate authorization from the client to release “psychotherapy notes” is not provided, the separate notes should be withheld when responding to the subpoena for records.

Tarasoff in Texas

The Tarasoff v. Regents of the University of California established that mental health professionals had an obligation to protect intended victims of violence, even if they learn of that intended violence in the confidentiality of the doctor-patient relationship.



Tarasoff does not apply in Texas, and social workers do not have a duty to warn.

They are protected and may only disclose private information to law enforcement.



HIPAA



HIPAA

HIPAA (Health Insurance Portability and Accountability Act of 1996) is a U.S. federal law that establishes national standards to protect sensitive patient health information from being disclosed without consent.



HIPAA

Core Concepts

- **Confidentiality:** An ethical principle that prohibits social workers from disclosing client information without consent, except in specific circumstances.
- **Protected Health Information (PHI):** Any individually identifiable health information that is transmitted or maintained in any form (electronic, written, or oral).



HIPAA

Key Aspects of HIPAA

- **Privacy Rule:** Sets standards for protecting PHI. It outlines how covered entities (healthcare providers, health plans) and their business associates can use and disclose PHI.
- **Security Rule:** Specifies safeguards for protecting electronic PHI (ePHI). It requires covered entities to implement administrative, physical, and technical safeguards.
- **Breach Notification Rule:** Requires covered entities to notify affected individuals, the government, and in some cases, the media following a breach of unsecured PHI.

What Social Workers Must Do

- **Understand Covered Entities and Business Associates:** Determine if their agency or practice is a "covered entity" or "business associate" under HIPAA.
- **Comply with the Privacy Rule:**
 - Provide clients with a Notice of Privacy Practices.
 - Obtain valid consent for the use and disclosure of PHI.
 - Disclose only the minimum necessary information.
 - Allow clients to access and request amendments to their records.



HIPAA



HIPAA

Covered Entity vs Business Associate

- Under HIPAA, a covered entity is a healthcare provider, health plan, or healthcare clearinghouse that is directly responsible for protecting patients' health information. A business associate, on the other hand, is an entity that performs certain functions or activities on behalf of a covered entity that involve the use or disclosure of protected health information (PHI). Essentially, covered entities are the primary users of PHI, while business associates provide services that involve PHI.

<https://www.hhs.gov/hipaa/for-professionals/covered-entities/index.html>



HIPAA

What Social Workers Must Do Cont.

- **Comply with the Security Rule (if applicable):**
- Implement administrative safeguards (policies, procedures, training).
- Implement physical safeguards (facility access controls, workstation security).
- Implement technical safeguards (access controls, encryption).
- **Adhere to the Breach Notification Rule: Have a plan in place to respond to breaches of unsecured PHI.**
- **State and Federal Laws: Be aware that state laws may provide additional privacy protections that are stricter than HIPAA. Social workers must follow the stricter law.**



HIPAA

When Disclosure of Information Is Permitted

- **With Client Consent:** Social workers can disclose PHI when the client has provided valid, informed consent.
- **For Treatment, Payment, and Healthcare Operations (TPO):** HIPAA allows disclosure of PHI without client authorization for essential activities related to providing healthcare, obtaining payment, and conducting healthcare operations.
- **When Required by Law:** Social workers may be required to disclose PHI in certain situations, such as:
 - Court orders or subpoenas
 - Mandated reporting of child abuse or elder abuse
- **To Prevent Harm:** Social workers may disclose PHI if they believe a client poses an imminent risk of harm to themselves or others (duty to warn).



HIPAA

Ethical Considerations

- **NASW Code of Ethics:** The NASW Code of Ethics reinforces the importance of client confidentiality and provides ethical guidance on when disclosure may be necessary.
- **Informed Consent:** Social workers have an ethical responsibility to ensure that clients fully understand the limits of confidentiality and provide voluntary, informed consent before information is shared.
- **Confidentiality After Death:** The duty of confidentiality generally continues after a client's death.



HIPAA

Practical Steps

- **Policies and Procedures:** Develop and implement written policies and procedures to ensure HIPAA compliance.
- **Training:** Provide regular HIPAA training to all staff members.
- **Secure Record Keeping:** Maintain client records in a secure manner (electronic and physical).
- **Secure Communication:** Use secure methods for electronic communication (e.g., encrypted email, secure messaging).
- **Risk Assessment:** Conduct regular risk assessments to identify potential vulnerabilities in the protection of PHI.



Ethics In The World Around Us



CHILES V. SALAZAR



Chiles v Salazar

Chiles v. Salazar (2026): The New Era of Professional Speech

Balancing Client Protection, Professional Regulation, and the First Amendment

- Is “Talk Therapy” professional conduct that the state can regulate, or is it protected speech?
- Is conversion therapy a specific intervention or an exchange between a therapist and a client?

Chiles v Salazar

Background

The Petitioner: Kaley Chiles, a licensed counselor in Colorado.

The Statute: Colorado's 2019 Minor Conversion Therapy Law (MCTL).

- Prohibited licensed therapists from engaging in "conversion therapy" (efforts to change sexual orientation or gender identity) with minors.

The Conflict: Chiles argued the law censored her conversations with clients who sought counseling to align their behaviors with their faith-based values.

Lower Court Ruling: The 10th Circuit initially upheld the ban, labeling it a regulation of "professional conduct" rather than speech.

Chiles v Salazar



The Supreme Court Decision

The Vote: 8–1 Ruling (Majority opinion by Justice Gorsuch).

The Ruling: The Supreme Court sided with the plaintiff, remanding the lower court to apply a higher standard of review. The expectation is that the law will not meet this higher standard of review to the extent that it regulates protected speech.

Strict Scrutiny: Because the law restricted speech based on its content and viewpoint (allowing "affirming" talk but banning "conversion" talk), it must meet **Strict Scrutiny**—the highest legal standard.

Core Logic: The government cannot "enforce orthodoxy" by deciding which therapeutic conversations are legal and which are not.

Chiles v Salazar

The Dissenting Voice

Justice Jackson (Sole Dissenter):

- Argued that the state has a traditional and vital power to regulate the **practice of medicine and mental health**.
- **The Risk:** By labeling therapy as "pure speech," the Court makes it nearly impossible for states to protect citizens from debunked or substandard medical practices.
- **Child Welfare:** Jackson emphasized that the ruling ignores the rights of minors who may not be able to provide informed consent to harmful practices.



No core principle of our First Amendment jurisprudence leads inexorably to the conclusion that it violates the Constitution for a State to prevent its licensed talk therapists from using speech to harm the minors in their care... The Constitution does not pose a barrier to reasonable regulation of harmful medical treatments just because substandard care comes via speech instead of scalpel.

Chiles v Salazar

Harm to LGBTQ+ Youth

Removal of Safeguards: The ruling may freeze the enforcement of conversion therapy bans in 23+ states, including those that protect minors.

Mental Health Risks: Decades of research show conversion practices are linked to:

- Increased suicidality and self-harm.
- Severe depression and anxiety.

Legitimizing Discredited Science: The decision treats conversion therapy as a valid viewpoint in a marketplace of ideas rather than a rejected medical practice.

Chiles v Salazar

First Amendment Implications

Protection from State Overreach: The ruling prevents the state from regulating the content of a therapy session.

Safeguarding the Relationship: It affirms that the therapist-client relationship is a private space for dialogue, free from government surveillance or viewpoint mandates.

Diverse Applications: While this case was about conversion therapy, the protection extends to:

- Counseling on abortion/reproductive rights in restrictive states.
- Political or religious discussions within a clinical context.
- Diverse cultural perspectives that may clash with state-mandated narratives.

Chiles v Salazar



Implications for Texas Social Workers

Licensing vs. Speech: BHEC can still regulate *actions* (billing fraud, sexual misconduct), but it has a much harder time regulating *conversations*. This is especially pertinent considering [the recent AG Opinion regarding SB 14](#).

Informed Consent: In 2026, ethics now demands a heavier focus on informed consent—if the law can't ban a practice, the social worker must be even more diligent in explaining risks/benefits.

The Other Side of the Coin: The same First Amendment shield that protects conversion therapy also protects a social worker in Texas who wants to discuss topics like gender-affirming care options without fear of state-level prosecution.



If therapy is pure speech, does the Board still have the right to discipline a social worker for causing potential harm through their guidance, or is that now protected under the First Amendment?

Chiles v Salazar



PROS

People who agree with the decision mostly see it as a free speech issue. The Court got it right because the government shouldn't regulate/ban what they see as talk therapy. Once the state starts deciding which viewpoints are acceptable, it sets a dangerous precedent that could go beyond therapy and affect other professions, too. Many people aren't defending conversion therapy itself, but believe the bigger issue is protecting speech from government control. The fact that the vote was 8–1 makes them feel like this was a clear constitutional problem.



CONS

On the other side, people who disagree with the decision don't see this as a speech issue at all. They argue that therapy isn't the same as regular conversation. They argue that therapy is a form of treatment where what a therapist says can directly impact a client's mental health. They believe the state should be able to set limits, especially when there's strong evidence that certain practices can be harmful. From their point of view, the ruling ignores what professionals already know about conversion therapy and puts vulnerable clients at risk, especially younger LGBTQ individuals.

Chiles v Salazar

People who agree with the decision:

“In this case, the Supreme Court (in my understanding) isn't giving conversion therapy its blessing, rather it's saying that states can't just decide which therapies to ban.”

“If you believe the State of Colorado should be able to ban a type of therapy you don't agree with, then you're also agreeing the State of Alabama or Texas has the right to ban a type you do agree with.”

Chiles v Salazar

People against the decision:

“Opening the door to say therapy can be used to convert LGBTQ people also opens the door to argue LGBTQ people are mentally unwell, which makes anti LGBTQ legislation much much easier to propose. Even if you were right in the ban potentially being weaponized against gender affirming care, which I really don't agree could be argued effectively, you aren't acknowledging all the other rights its absence jeopardizes.”

“The issue with this argument is that they've been using this strategy of incremental legislation to chip away at rights for decades. And the usage of justification like this to make the change seem "reasonable" has happened multiple times.”

"Opens the door for defining LGBTQ people as mentally unwell, it helps normalize the practice of evangelicals forcing their ideology on people, it provides groundwork for bringing back conversion camps, it normalizes LGBTQ erasure, it justifies banning gender affirming care by not defining medical practice by science and instead basing it on opinion, it allows for LGBT people to have their mental state questioned as treating it as an illness is now allowed, and it strengthens attempts to outlaw gender affirming care for minors by providing a justification of evangelical ideology overruling the reality of LGBTQ people."



If your words are now Pure Speech, does that make you feel more protected from the government, or more worried about the quality of the profession?



Environmental Justice



Social Justice



Tech Justice

**making.
social
justice
work**

NASW-TX Equity Committees

- Sexual Orientation Gender Identity and Expression (SOGIE)
- Race, Equity, Accountability and Leadership (REAL)
- Women's Rights
- Human Rights
- Eco Social Work

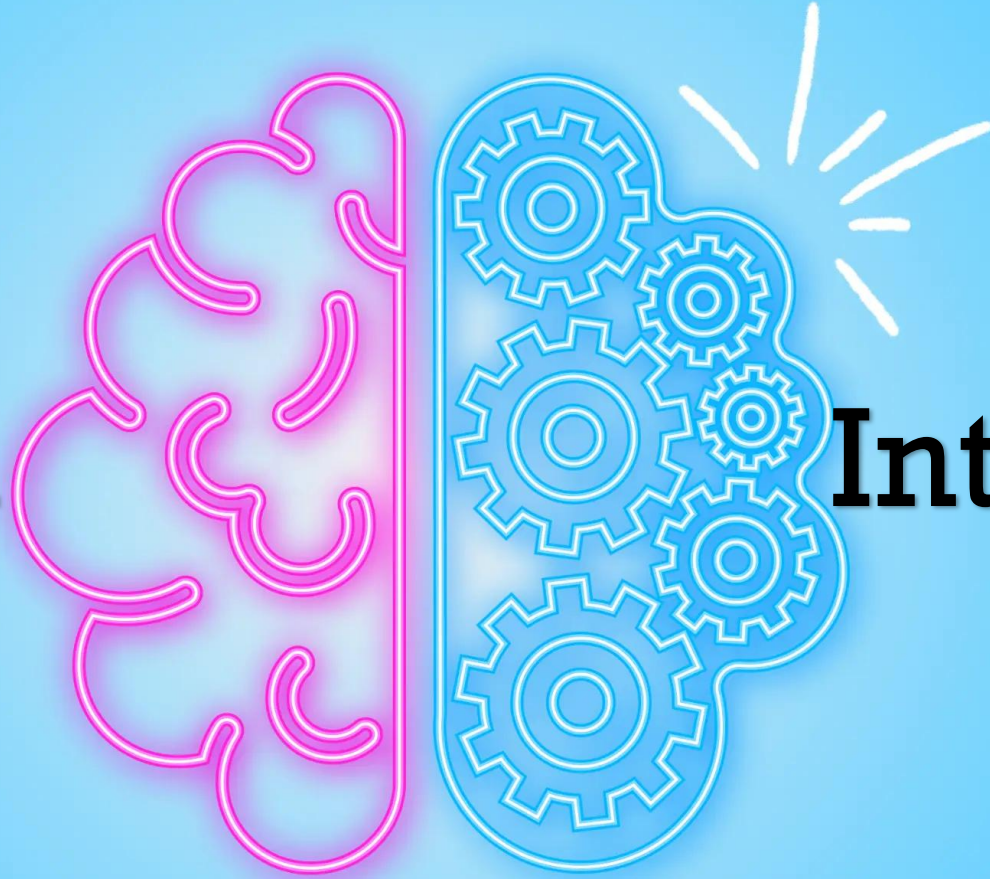




**“Technology is a useful servant
but a dangerous master.”**

Nobel Laureate Christian Lous Lange in 1921

Artificial Intelligence



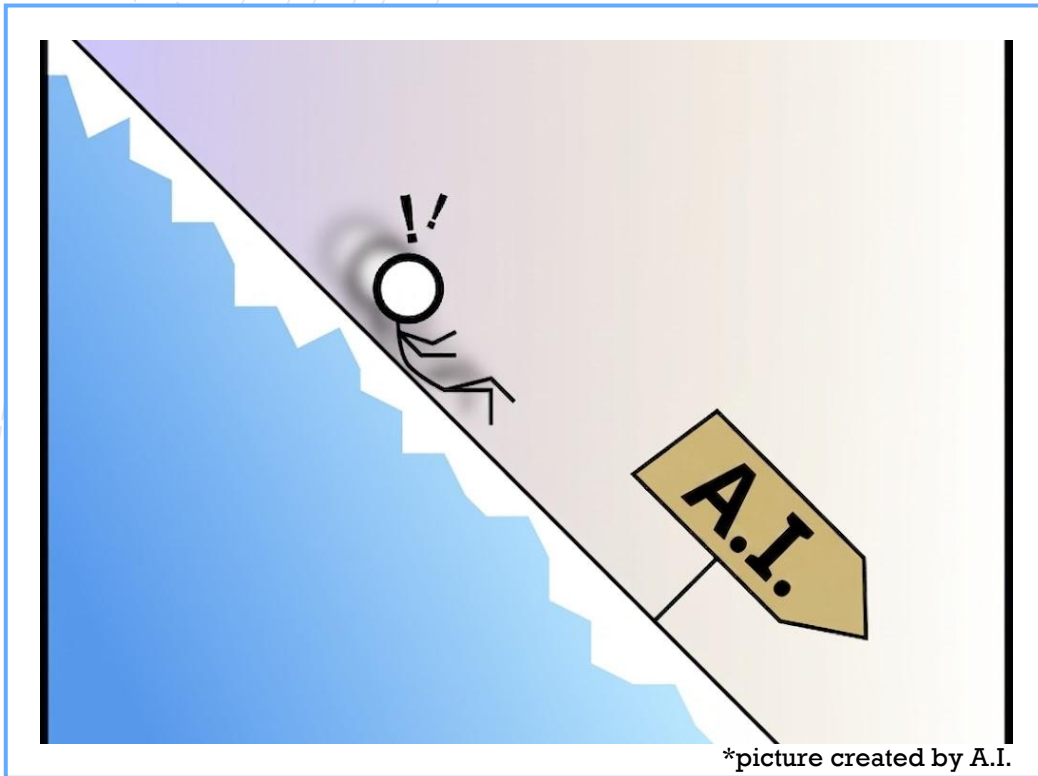
AI & Social Work: The 2026 Landscape

- AI is moving from experimental and exotic to a standard administrative tool.
- The APA 2025 Practitioner Pulse Survey (released in December 2025) found that among mental health practitioners using AI:
 - 22% specifically used AI for note-taking and dictation.
 - 32% used it for summarization.



How do we embrace efficiency without eroding engaged, attentive and omnipresent human oversight?

Slippery Slope?

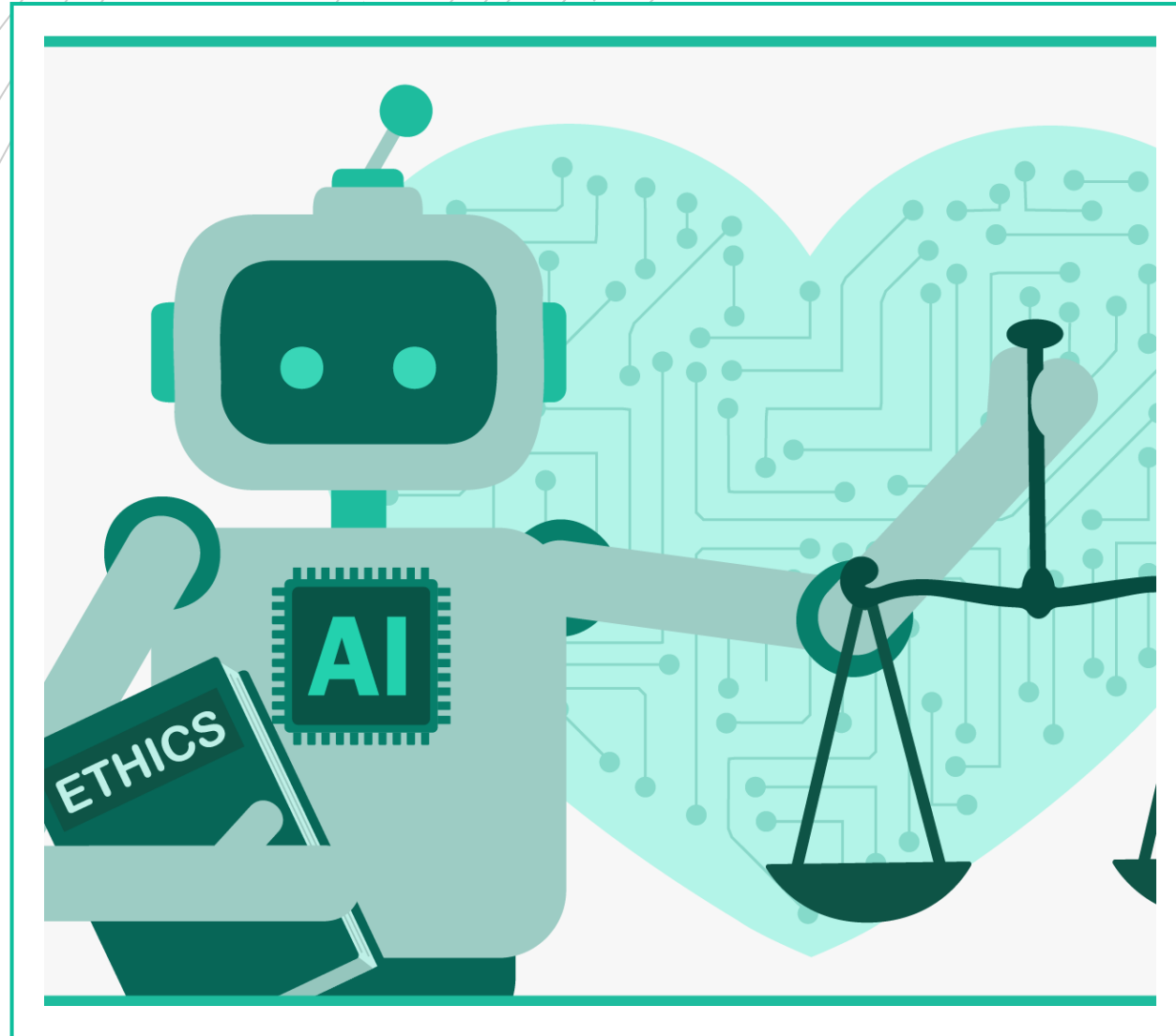


- AI tools can reduce time spent on case notes by up to 50%, potentially mitigating burnout.
- Early identification of crisis triggers in large datasets (e.g., predicting housing instability before a missed payment).
- 24/7 AI-driven psychoeducation tools for clients in rural Texas who lack immediate access to specialists.
- Using AI to surface patterns in complex family histories that a human eye might overlook.



Ethical Concerns

- AI is trained on historical data. If past data reflects systemic racism or sexism, the AI will amplify those biases in its outputs, incorporating algorithmic bias into its operations.
- Many free AI tools "ingest" data to train models, creating a permanent record of de-identified (but potentially re-identifiable) clinical notes.
- Are clients aware that a consent to use A.I. to record or create notes may also mean an algorithm is analyzing their possible trauma?
- If a machine drafts an empathetic response to a client's email, is it still authentic? Are those the same birthday wishes on a virtual card if written by a program?



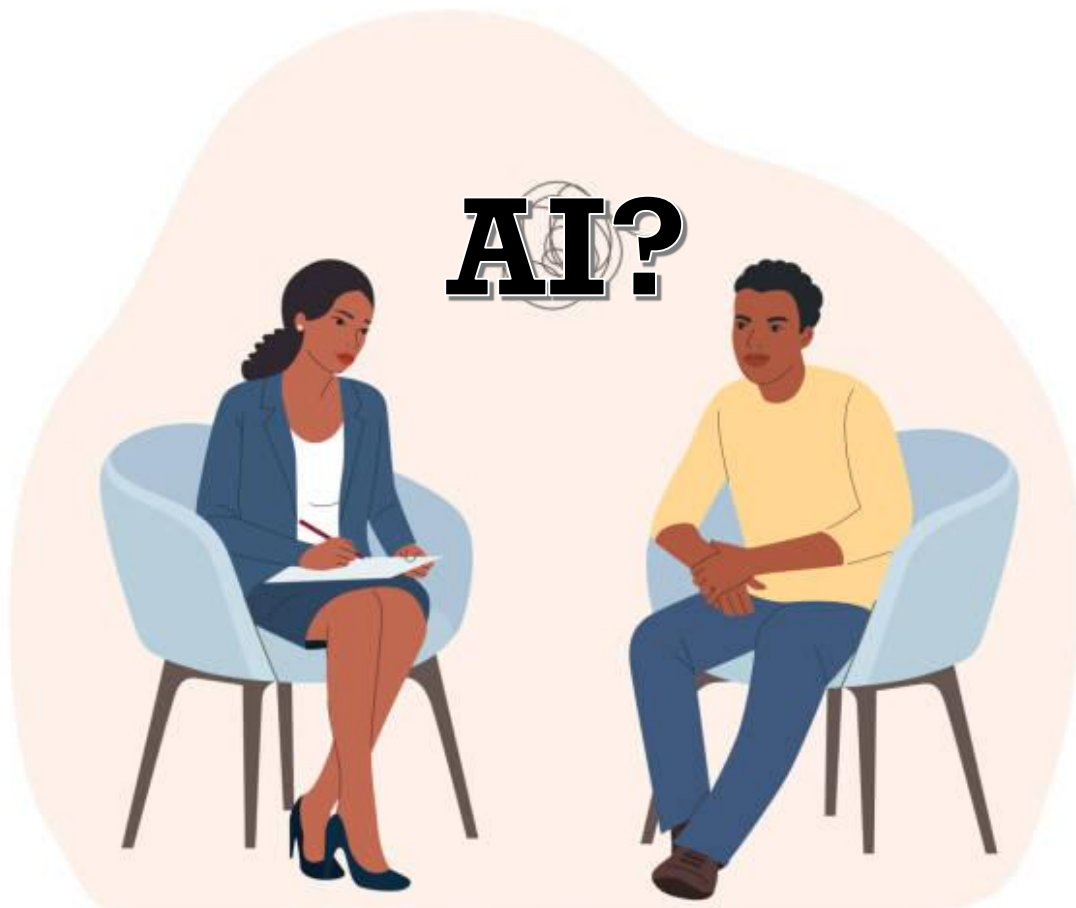
The most recent changes to the NASW Code of Ethics and the Social Work Rules are clear: You must be competent *before* you use technology.

Using a free, consumer-grade AI for client notes is likely a HIPAA violation because those tools aren't walled off or validated for compliance. In 2026, you must look for versions with BAA (Business Associate Agreements) or specific HIPAA Complaint models to protect yourself and your clients."



Empowerment vs. Vulnerability

- Clients may be using ChatGPT/Gemini/Claude/etc. to process feelings between sessions. Does AI provide any resistance or will it always default to acceptance?
- Could AI-driven care create a two-tier system where high-wealth clients get humans and low-wealth clients get chatbots?
- Most (all) generative AIs are not designed to navigate a mental health crisis. How does a chatbot give advice to a client in a domestic violence situation?
- Does AI have any real understanding of a dual relationship? Can your AI therapist also be your AI girl/boy friend?



AI?

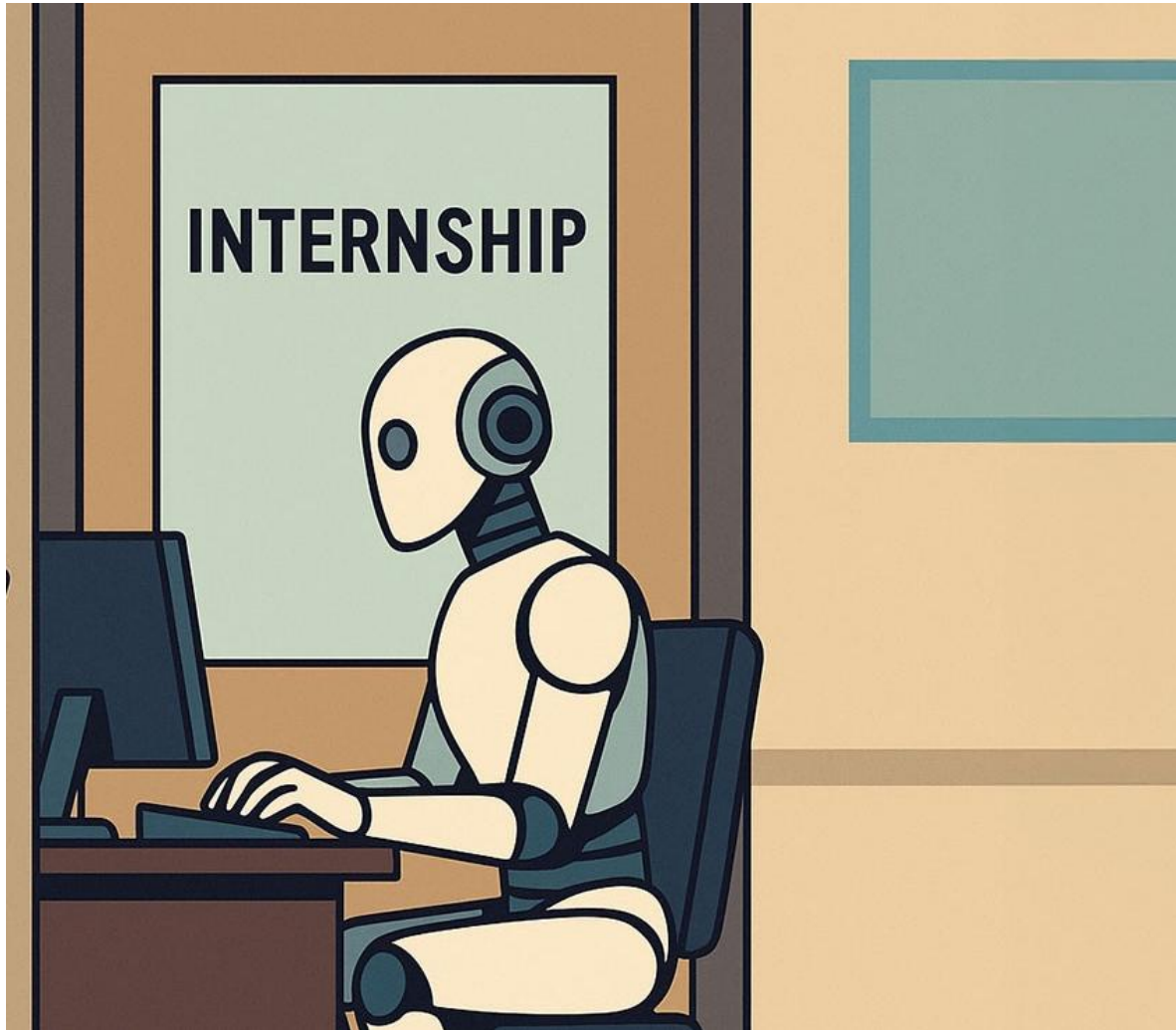
We need to stay curious. In your next intake or session, if appropriate, don't be afraid to ask: "Are you using any apps or AI tools to help manage your mood?"

Your clients are already doing it. Our job isn't to ban it, but to ethically integrate their relationship with that technology into the work we do.

Best Practices for Texas Social Workers



- Never sign an AI-generated note without a line-by-line manual audit.
- Include an "AI Disclosure" in your informed consent paperwork.
- Ensure any AI tool used meets the Texas BHEC standards for encryption and the Consolidated Rules for record-keeping.
- Engage with your places of work around policies that don't just cede administrative efficiency to AI at the cost of human oversight.
- AI is a *consultant*, not a *decision-maker*. All clinical judgments must remain with the licensed professional. Ultimately, AI is not a really smart thinking machine. It is a programmed set of tasks that can be executed faster along pre-programmed guidelines. Yes, it is learning, but it isn't self-aware (yet).



Think of AI as a 'Junior Intern' with a photographic memory but zero common sense. It's excellent at summarizing 40 pages of case records in seconds, but it cannot feel the tension in the room during a family session.

We use it to clear our desks so we can put our eyes back on our clients.





Environmental justice is the principle that all people (regardless of race, color, national origin, income, etc.) are entitled to equal environmental protection and the right to live, work, and play in a healthy environment.

For social workers, environmental justice is not a new specialty but a return to the profession's foundational **person-in-environment** perspective.

From Settlement Houses to Toxic Soil

The history of social work and environmental justice are deeply intertwined, though the connection was often implicit in early practice.

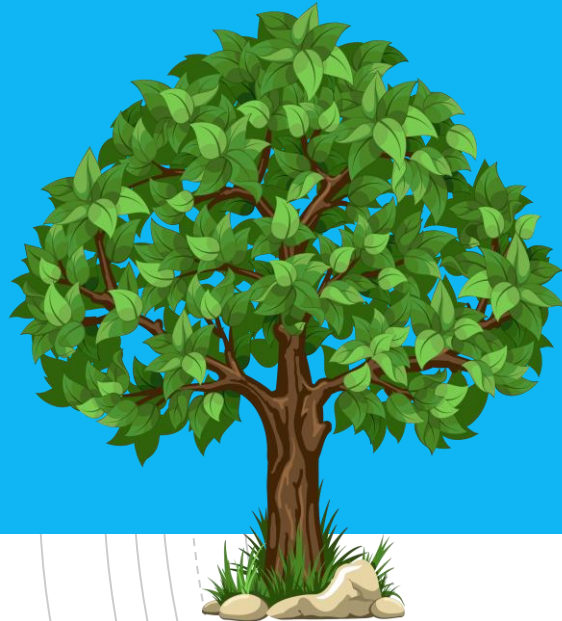


- **The Progressive Era Roots:** In the late 19th century, pioneers like **Jane Addams** and the Settlement House movement were among the first “environmental social workers.” They fought for sanitation, lead paint removal, clean air, and safe housing in immigrant neighborhoods, recognizing that poverty was exacerbated by toxic living conditions.
- **The Birth of the Movement:** Modern environmental justice coalesced in the 1980s, sparked by the **Warren County, NC** protests against a PCB landfill in a predominantly Black community. This shifted the focus from wilderness preservation to human survival in polluted urban and rural spaces.
- **The Professional Evolution:** By the 1990s, social work began formally integrating **Eco-social Work**. This was a response to the [Dumping in Dixie](#) research by Dr. Robert Bullard, which proved that race was the single most potent variable in predicting the location of toxic waste facilities.

Environmental Justice Issues in Texas

Texas social workers face unique and acute environmental challenges due to the state's vast geography and industrial landscape.

- Water is the primary environmental justice battleground in Texas today.
 - In the Rio Grande Valley, thousands of residents in "colonias" still lack basic indoor plumbing or access to treated water, leading to higher rates of waterborne illnesses.
 - Advocacy groups have identified dangerous levels of lead in the drinking water of older Texas schools, disproportionately affecting low-income districts.
 - In East Harris County (Chasewood) and East Austin, communities of color have historically lived adjacent to petrochemical plants and "tank farms." Residents report rare cancers linked to groundwater contamination from these industrial sites.
 - As of April 2026, Corpus Christi is facing a severe, historic water shortage due to prolonged drought and high industrial demand, with reservoir levels below 8% capacity. The city is under Stage 3 water restrictions, with a potential emergency declaration (Stage 1) projected for late 2026 that could severely limit water for industry and residents.





Climate Vulnerability and Disaster Equity

- Disadvantaged coastal populations and residents in the Lower Rio Grande Valley face the highest national risk for flooding yet often receive the least amount of federal and state recovery aid.
- During extreme weather (like the 2021 winter storm or the heatwaves of 2025), low-income Texans face may energy poverty, where the cost of heating or cooling a poorly insulated home becomes an ethical crisis of survival.

IN CLINICAL AND DIRECT PRACTICE

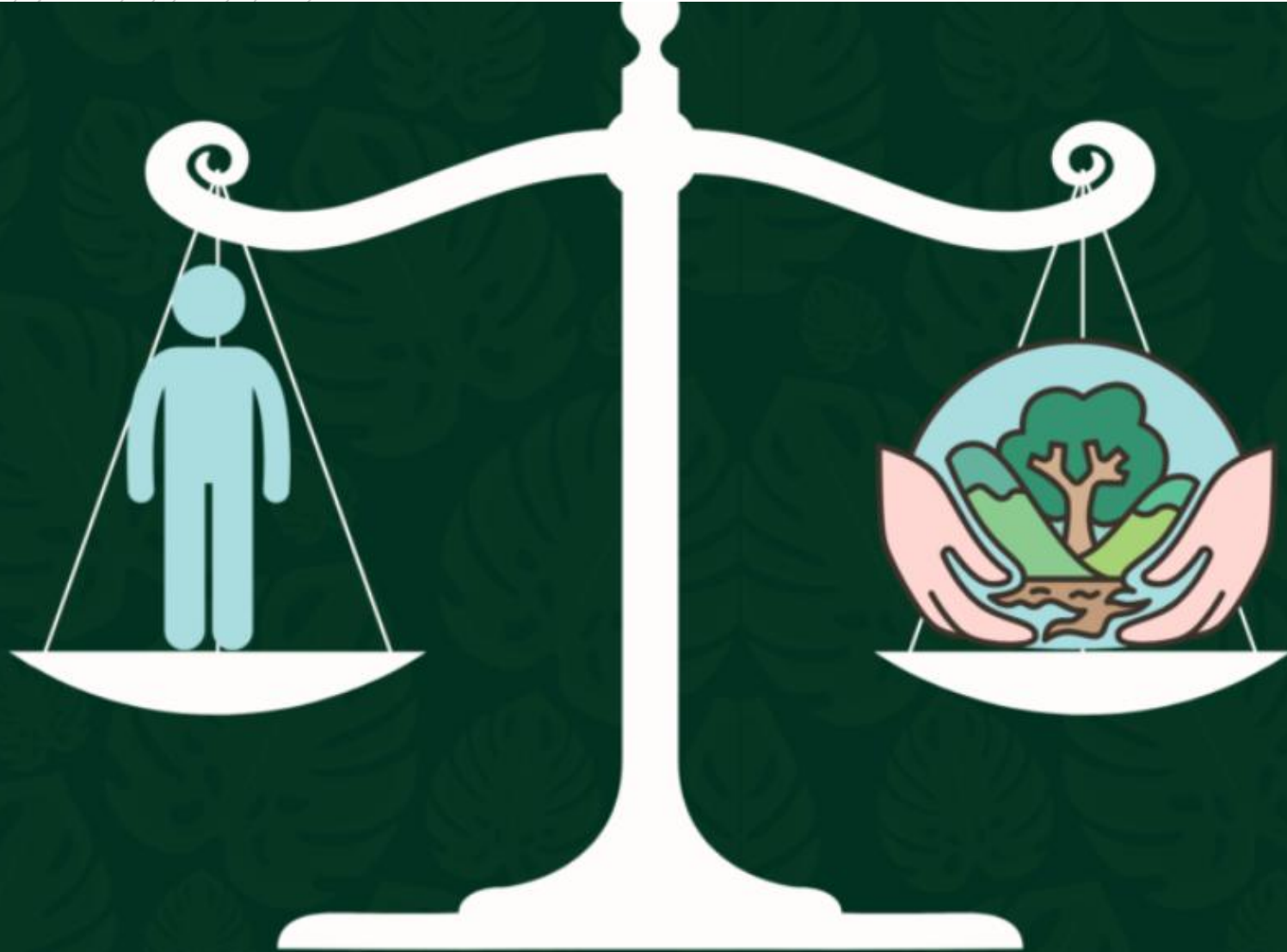
- **Environmental Screenings:** Incorporate questions about home environments into intakes (e.g., "Do you have consistent access to clean water?" or "Is there mold or industrial odor in your neighborhood?").
- **Disaster Preparedness:** Help vulnerable clients (seniors, people with disabilities) create safety plans for Texas-specific events like hurricanes or extreme heat.
- **Health Navigation:** Connect clients with respiratory issues (like asthma) to resources for weatherization or legal aid if their landlord refuses to address environmental hazards.

IN ADVOCACY AND MACRO PRACTICE

- **Community Capacity Building:** Social workers should facilitate a community voice in local zoning boards. If a new concrete batch plant is proposed near a school, social workers can organize residents to testify at the Texas Commission on Environmental Quality (TCEQ) hearings.
- **Legislative Advocacy:** Participate in NASW-TX Social Work Advocacy Day to push for bills that mandate lead testing in schools or protect the water rights of rural and marginalized communities.
- **The "Eco-Social" Lens:** Join the NASW-TX Eco Social Work Committee to stay informed on 2026 legislation regarding climate resilience and water quality advocacy.



As social workers, we must recognize that social justice cannot exist without environmental justice. If a client's environment is toxic, our clinical interventions are merely band-aids on a systemic wound.





Think of a client you currently serve. How does their physical environment (water quality, air quality, or heat access) impact their mental health or economic stability? What is one macro change that would improve their 'micro' reality?



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