Teaching About Liability

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In recent years, the number of lawsuits against social workers has increased steadily. Although practicing social workers increasingly are aware of their legal vulnerability, they tend to have only a general uneasiness about the problem, not a clear idea of the legal and practice issues involved. Social work educators should provide information about the nature and elements of liability. This article reviews the fundamentals of social work liability and describes how they can be covered in almost any course, but particularly in courses on social work ethics, professional methods and practices, child welfare, and social work policy.

SOCIAL WORKER liability is a relatively new phenomenon. As recently as 15 years ago, there were almost no lawsuits, especially not successful ones, against social workers. Since then, however, there has been a steady increase in suits. From 1982 to 1985, the total more than doubled, from fewer than 1,000 to more than 2,000.[1]

Although practicing social workers increasingly are aware of the problem, they are not informed about the legal and practice issues involved. This lack of information can be dangerous. As Sharwell wrote:

> What social work educators do not know about malpractice can hurt us. What is more, our ignorance of this nasty yet very real legal concept also can cause injury to social work students, to social work practitioners, and to their clients.[2]

All levels of social work education—undergraduate, graduate, and continuing professional education—have a responsibility to teach about the nature and elements of liability. Schools of social work should lead in this effort. Few social work educators teach about liability because, as nonlawyers, they feel unqualified to do so. This article seeks to dispel this misconception. One need not be a lawyer or have special training to teach about liability. Although involving a lawyer in class discussions about liability can be helpful, it is not necessary. The issues have more to do with common sense and sound social work practice than they do with legal technicalities.

Although liability is an important enough issue to justify specific courses on the subject, this article describes how liability issues can be covered, to the benefit of the students, in almost any course, but particularly in courses on social work ethics, professional methods and practices, child welfare, and social work policy.

HOW BIG A PROBLEM?

"It is all too easy to spin horror stories about the liabilities that the courts and legislatures have imposed upon social workers and other professionals," states Sharwell.[3] At most, only 1 or 2 percent of all active social workers have ever been sued. Moreover, many of the cases that are filed can best be described as frivolous—cases such as the one brought by the former mental patient who sued the hospital that released him on the ground that it should have known that he would kill his girlfriend; or the case brought by the mother who threatened to sue a child protective agency on the ground that it should have known she would kill her four children.[4]

However, social workers would be equally mistaken to underrate the risk that they face. Potential liability is now a fact of life for social workers, whether they are in private practice or employed by public or private agencies. In all parts of the country, social workers and their agencies have been charged with professional malpractice or violating their clients' rights. Clients' claims for monetary damages range from a few thousand dollars to millions of dollars. The number and types of lawsuits against social workers are increasing rapidly, so no form of practice is immune.

Furthermore, even frivolous claims have to be defended, an often stressful and always expensive process. As one therapist warns: "The painful reality is that one may be functioning as an ethical and competent therapist on a case and still face a lawsuit...."[5]

WHY FRIGHTEN STUDENTS?

Teaching about liability provokes unavoidable anxiety in social workers and social work students. The less said the better, some argue, lest fear of being sued drives the best practitioners from the field. There are, however, a number of reasons why social workers should be taught about liability. First, for reasons of basic fairness, current and prospective social workers should be warned of their growing legal vulnerability and should be given the sobering facts about malpractice.[6]

Second, describing how liability is created can help practitioners and students reduce their vulnerability. Particularly hazardous areas of practice (such as child welfare services and work with potentially suicidal persons) can be identified, good practice responses highlighted, and the need for adequate insurance emphasized. This also is an appropriate context in which to raise ethical issues about the professional's duty to clients and to society in general.

Third, to avoid overreaction and consequent defensive practice, legal vulnerability can be placed in an appropriate perspective. Despite the very great increase in lawsuits against social workers, the truth is that most social workers will not be sued and the legal system and insurance will provide reasonable protection for most of those who are. Thus, appropriate education can calm unjustified fears. An informed professional can understand that although liability is an important concern, there is no reason to panic. This understanding will reduce the stress under which social workers must operate and should enable them to focus on

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the central issue: providing high-quality services to clients.

Lastly, nothing draws the attention of an audience more than the fear of liability. Therefore, teaching about liability is an excellent way to focus the attention of students on the importance of good social work practice, the best defense to a lawsuit.

THE "NEW" LIABILITY

Why has social worker liability suddenly become such a problem? The increasing number of lawsuits stems from several changes—both in the law and in the social work profession—that bear explanation.

On the legal front, courts and state legislatures have all but abolished the doctrines of sovereign, governmental, and public officials' immunity, so suing public social service agencies and their employees has become progressively easier.[7] Similarly, the doctrine of charitable immunity has been abolished in most states (and sharply circumscribed in the rest), thus exposing private agencies and their employees to greater liability.[8] Courts also have expanded the legal concept of "duty" so that helping professionals and agencies have a broader obligation to take affirmative steps to protect others.[9] For therapists, the "duty to warn" of a client's dangerous propensities is the best known of these new legal duties.[10] Also, various federal laws, such as the Civil Rights Act of 1964, have been applied to social work services, particularly in the child welfare field.[11]

The growing number of suits against social workers is also a manifestation of an increasingly litigious society. In recent years, more and more professions have been exposed to tort liability. College teachers have been sued for giving students poor grades and for denying colleagues tenure, weather forecasters for failing to predict a fierce storm that killed three fishers, and clergy for the harmful effects of their pastoral counseling, which some have called "clergy malpractice."[12]

Changes in the nature and structure of the social work profession also have expanded exposure to liability. The simple increase in the number of private practitioners is probably the most important reason for more lawsuits. Alexander described the other factors involved: (1) National Association of Social Workers (NASW) practice standards have created a measure that courts can use to judge social worker and agency performance, (2) unconventional and often high-risk therapeutic techniques have proliferated, (3) existing mechanisms inadequately regulate professional behavior, (4) social work education provides limited guidance regarding professional discipline and ethical values, and (5) inexperienced social workers now move rapidly into private practice and new areas of social work employment.[13]

ELEMENTS OF LIABILITY

The basic legal concepts of the nature and scope of liability can be explained in any practice-oriented course. The most important points to cover are discussed below.

Potential liability is created when a client is harmed because a social worker fell below the profession's standards of conduct and competence. Liability can be created by doing nothing (this is called an *act of omission* or *nonfeasance*) or by doing the wrong thing (called *misfeasance* or *malfeasance*). The common legal question is whether the social worker "knew or should have known," based on the standards of the profession, that some particular action was required. Thus, social workers are held to objective standards of professional skill—as determined by a court *after the fact*.

The failure to follow a law, rule, administrative procedure, or professional standard can establish liability, even if the social worker or agency did not know of its existence. Good faith is rarely an effective defense. Furthermore, if a particular conduct is mandated by statute, court decision, or legally binding agency rule, adherence to contrary professional standards or ethics generally is not a valid defense. Legal rules and, hence, civil and criminal liability, vary from state to state. What is permissible—in fact, what is considered good practice—in one state may create liability in another.

Moreover, a social worker may be held liable for the erroneous decision of another, if the social worker's wrongful or negligent conduct contributed to the error. For example, although a physician may have the legal authority to decide whether a client should be hospitalized, the physician's reasonable reliance on an inaccurate history provided by a social worker may shift liability to the social worker.

Liability can be established by what happened in an individual case or in a particular situation; a long career of outstanding performance is no defense. Lastly, inadequate training or supervision is rarely a successful defense, although an overwhelming workload, if properly documented, can be.

The Liability of Supervisors. Agencies and individual workers may be held responsible for the acts (or omissions) of all those working for them (or under their supervision), including students, outside consultants, foster parents, and volunteers. Liability may be created even if the agency or social worker was unaware of the particular act or omission—because liability is created by inadequate supervision as well as by improper supervision.

Directors, trustees, or board members may be held responsible if an agency's liability was caused by their intentional or grossly negligent behavior, or if the harm to the client could have been prevented by their exercise of minimal care or reasonable diligence.

Statute of Limitations. In most states, there is a three- or five-year statute of limitations on bringing a claim. After this time, it generally is not possible for a person to sue for allegedly wrongful acts. If the plaintiff is a minor, however, most statutes of limitations do not begin to run until the child reaches the age of 18.[14] Thus, a suit could be filed as much as 21 years after the events in question. The Iowa Department of Social Services and a number of its employees were sued in 1983 for allegedly failing to protect a child. Their last official contact with the family was 1968.[15] Of course, a suit can be initiated while the child is still a minor if it is brought by a legal representative or a duly appointed guardian.

Agency versus Worker Liability. Most legal judgments establish *joint liability* of the social worker and the agency (usually the agency pays the entire judgment). Sometimes, however, only the social worker is found liable. Depending on the circumstances, the agency probably will have no legal obligation to pay a judgment made only against a social worker, though many will do so. A conflict of interest between an agency and a social worker often is discovered only after the agency's attorney elicits damaging evidence from the social worker; this evidence can be used later to shift some, or all, liability from the agency to the social worker.

Extent of Liability. In general, the amount of monetary damages awarded is determined by the amount of actual harm or injury proximately caused by a social worker's wrongful acts or omissions. Liability ordinarily is limited to the plaintiff's actual damages, but if bad faith, malicious intent, reckless behavior, or gross negligence is established, punitive damages may be awarded. In such cases, a sizable judgment is possible even if the plaintiff suffered only small or nominal harm.[16]

The only harms or injuries that are considered for compensation are those that are sustained *after* the allegedly wrongful conduct. Defendants are not responsible for conditions that arose before they could have intervened or treated them.

In federal court actions, successful plaintiffs may have a separate right to obtain

reimbursement for their attorneys' fees from defendants. These fees can amount to tens of thousands of dollars, even when the actual damages are small or nonexistent. In fact, liability for attorneys' fees may be created even in a nonmonetary settlement in which the defendants agree to change their procedures or practices. Even when social workers successfully defend a lawsuit, it is unlikely that the losing plaintiff will be required to reimburse their legal expenses.

COMMON LAWSUITS

Although there is as yet no general liability for the "failure to cure" a client, nearly every other aspect of social work practice can be the subject of a lawsuit. The following categories outline the kinds of suits that can arise.

Treatment without Consent. When a person sees a social worker in private practice, consent is implied, but some specific circumstances may enable clients to claim that they were coerced. For example, one client claimed that she sought treatment in a residental drug counseling program only because her employer threatened to fire her if she did not do so. She sued for "severe emotional distress and related physical trauma" caused by "involuntary confinement."[17] Also, clients should give explicit consent to unusual or radical treatments, such as those that utilize special diets, physical contact, or restraint.

Inappropriate Treatment. Social workers can be liable when a professionally inadequate or inappropriate diagnosis injures a client. A common complaint is that a social worker overstepped the limits of professional training or competence. Half of the claims for erroneous diagnosis under NASW's insurance policy were based on charges that a client's problem actually was a physical condition requiring medical treatment, in effect, that a social worker practiced medicine without a license.[18]

Failure to Consult with or Refer to a Specialist. Social workers are not equipped to diagnose or treat all the possible problems of their clients. Frequently, they may need the assistance of psychiatrists, psychologists, or other social workers with more specialized expertise. A common claim is that a social worker failed to consult with (or refer a client to) a psychiatrist for diagnostic assistance or possible medical treatment.

Failure to Prevent a Client's Suicide. Social workers can be liable for failing to take steps to prevent a client's suicide if suicidal tendencies were known or evident. If they were, the social worker may be legally obliged to seek the client's hospitalization, to notify the client's family, or to notify the police. Hospitalized patients can sue for unwarranted release or for the failure to be kept in a safe, supervised environment to prevent self-harm. For example, the heirs of one patient who committed suicide successfully sued because the patient strangled herself while she was locked in a room alone.[19]

Causing a Client's Suicide. Although most suicide cases allege the "failure to protect," there have been claims that a therapist's actions caused or precipitated the suicide. These suits rarely are successful, because it is so difficult to prove the requisite causation. In one case, however, a psychiatrist who told a patient that he would divorce his wife and marry her, and then did not, was sued successfully by the patient's husband after she killed herself.[20]

Failure to Protect Third Parties. If it can be shown that a social worker knew of a client's violent tendencies toward a third person, that third person, if injured by the client, can sue for failure to warn of the danger. Depending on the circumstances, the social worker may be required to seek the client's hospitalization, to notify the potential victim or his or her family (especially if the potential victim is a child), to notify the police or other appropriate authorities, or even to retain the client in custody. Courts differ on how far the obligation to protect reaches. Some require that the potential victim be identified to the therapist, while others assign liability based on the client's general violent propensities.

Inappropriate Release of a Client. Social workers who release a client from hospitalization, confinement, or supervision face liability if that client has suicidal or violent propensities that were known or should have been known. One lawyer won a $200,000 judgment for the inappropriate release of a mental patient who, becoming enraged during a conference with the lawyer, leaped across a desk and bit off a part of the lawyer's nose.[21] The social worker need not have made the actual decision to release the patient; it is sufficient that the decision was based on inadequate information the social worker provided to the prime decision maker.

False Imprisonment. Social workers can be liable if a client is detained wrongly or committed by a psychiatrist based on the social worker's recommendation or on a biased or negligently prepared history. A social worker, for example, may have failed to discover or inform the physician about important information concerning the client's past psychological tests, diagnosis, or treatment. Also, a social worker may have based the report inappropriately on information supplied by an unreliable source, such as a hostile relative.

In many states, child protective workers have direct authority to place children in protective custody. When they do, they can be liable for their decisions to place a child—or for failing to do so. Common claims are that a social worker, assuming that the report of suspected abuse was true, removed the child without making an independent inquiry—or that the worker failed to respond to clear evidence of maltreatment.

Failure to Provide Adequate Care for Clients in Residential Settings. Social workers can be liable if their conduct contributes to a residential facility's failure to provide adequate supervision or care, which in turn causes the client physical or emotional injury. The most immediate form of such liability is created by the many recent state laws that require social workers to report cases of *suspected* institutional maltreatment.[22]

Assault and Battery. Therapists using conflict resolution, physical encounter, or fight techniques are particularly vulnerable to claims of assault and battery. Although a client's consent to such treatment techniques is essential, it is not an absolute defense. Moreover, social workers have been sued for forcibly subduing violent or self-destructive clients.[23]

Sexual Involvement with Clients. Social workers have been found liable for money damages in cases in which they have been sexually involved with clients. A few therapists claim that this behavior can be useful in treatment, but the NASW Code of Ethics unequivocally prohibits it. Most such charges are filed against men.

Breach of Confidentiality. Although most social workers are committed to maintaining client confidentiality, confusion about their legal obligations or right to disclose information (to authorities, to other therapists, to family members, or to persons who appear to be threatened by the potential violence of the client) sometimes results in good faith breaches that are, nevertheless, illegal. In other cases, disclosure may be accidental or careless. For example, during a marital counseling session with both spouses, one social worker inadvertently mentioned the wife's extramarital affair (revealed in a prior individual session). When the information helped the husband achieve a more favorable divorce settlement, the wife sued the social worker.[24]

Defamation. Social workers can be liable if they say or write something, even under court order, that is harmful to or untrue about a client. The information need

not be confidential. Social workers have been sued in response to reports they have prepared for clients' prospective employers or for court purposes. Though most claims are by former clients, they also can be brought by employees or colleagues. Supervisors have been sued for giving poor evaluations to social work students in field placements when the poor evaluation prevented a student from graduating. Such suits are most likely to succeed when the negative evaluation is inadequately supported by specific reasons recorded during the supervision period.

Violation of Client's Civil Rights. An increasing number of courts are construing a publicly employed social worker's failure to comply with statutory and administrative procedures (as well as the provisions of the U.S. and state constitutions) as a violation of a client's civil rights. For example, workers have been sued for failing to give long-time foster parents statutorily required notice of an impending removal of a child from their custody or to accord them a hearing or priority in adoption.[25]

Failure to Be Available When Needed. Some clients need their social workers' help in time of crisis. If the need to be available was reasonably foreseeable, then liability can arise if the client suffers harm because the social worker was not available and did not take the precaution of arranging coverage by another social worker or other qualified therapist. In addition, the substitute social worker must be adequately skilled and briefed to meet the apparent needs of the client. For example, a social worker could be liable for failing to tell the substitute social worker of a client's suicidal tendencies if the failure to do so contributed to the client's death.

Termination of Treatment. Social workers can be liable if they terminate treatment abruptly or at an inappropriate time. Some clients have claimed that they suffered a setback or a worsening of their condition when therapy was concluded prematurely. Of course, social workers are under no legal obligation to treat a client for free, but they do face potential liability if termination is unreasonably abrupt or during a moment of particular crisis in a client's life. Other clients have claimed that therapy continued beyond their need for it; this claim is made most often in response to a billing dispute.

Inappropriate Bill Collection Methods. Many states proscribe overzealous bill collection. The confidential nature of the social worker–client relationship, together with the embarrassment some people feel when others learn that they were under treatment by a psychotherapist, creates an additional dimension of liability when, during bill collection efforts, the social worker unnecessarily discloses that the client was being treated. Some states have special laws specifying the steps a therapist must take before referring an account to a bill collection agency.[26]

SPECIAL PROBLEMS OF CHILD WELFARE LIABILITY

While liability issues can be covered effectively in almost any practice-oriented course, they have special importance—and teaching utility—in child welfare courses. With the exception of claims of sexual exploitation of clients, the most common claims against social workers involve child welfare–related services. Also, with the same exception, they seem to be the most likely to succeed. Child welfare services are, after all, the major involuntary services that social workers provide directly. In addition, this is the only area in which social workers face a tangible chance of being criminally prosecuted for doing their jobs. As the following summary of possible suits illustrates, liability issues can be raised throughout a child welfare course.

Reporting Suspected Child Abuse and Neglect. A social worker seeing children or their families can be held civilly and criminally liable for failing to report or for wrongfully reporting. One school social worker was sued for failing to report a student's complaint that she was being sexually abused at home.[27] In addition, social workers who report against the wishes of their agencies sometimes suffer adverse employment actions.

Inadequately Protecting a Child. Child protective workers can be sued for failing to accept a report for investigation, for failing to investigate reports adequately, for failing to place a child in protective custody, for returning a child to dangerous parents, or for failing to provide adequate case monitoring. One Iowa case, which was settled for $82,500, involved an agency that failed to make follow-up home visits after the agency determined that the visits were necessary to protect an abused child, who was later killed.[28]

Violating Parental Rights. Child protective workers also can be sued for performing unnecessarily intrusive investigations, for defaming parents, for wrongfully removing (or withholding) children, for malicious prosecution, or for disclosing confidential information. A number of agencies, for example, have been sued successfully for removing children before making any real inquiry about the truth of the allegations against the parents.

Inadequate Foster Care Services. Child welfare workers can be sued for placing dangerous foster children with foster parents who are not warned of the possible danger to them, for placing children with dangerous foster parents, for failing to meet a child's needs for special care, for failing to treat parents, or for failing to arrange a child's adoption. A jury awarded $225,000 against the New York City Department of Social Services for ignoring repeated indications that a child was being sexually abused by her foster father.[29]

GOOD PRACTICE AS THE BEST DEFENSE

As the foregoing suggests, many successful lawsuits are based on a social worker's failure to adhere to applicable state laws, administrative procedures, or established professional standards. Thus, a keen awareness of these liability-creating documents and their requirements is not only good practice—it is critical to any effort to reduce personal vulnerability. Good practice is the best defense to possible liability, as Sharwell explains:

> Examination of malpractice is important both because of its potential usefulness in saving the skin (or pocketbook) of the social work educator, student, or practitioner and because of the seemingly obvious relationship of malpractice to questions related to competent social work practice. Because they are opposite sides of the same coin, to learn about malpractice is to learn about competent practice as well.[30]

Agencies should provide adequate orientation, training, and supervision for their employees. Social workers should have a clear understanding of what is expected of them; they should know the essential elements of their responsibility and authority. For example, they should know what actions they can take on their own initiative (and the considerations involved) and what actions require supervisory or administrative approval. Staff training should be an ongoing process that seeks to reinforce employees' familiarity with the law and agency policies and to ensure that they have current information.

Social workers in private practice must do all this on their own initiative, but all social workers, whether in an agency or in private practice, have the responsibility to learn their business. This means reading professional literature, seeking and taking advantage of educational opportunities, consulting with others, and maintaining membership in professional groups and organizations.

Careful Record-keeping

Maintaining complete and up-to-date records is the core of good social work practice. Some social workers think that they will be better protected if they keep minimal records so that no one will be able to second-guess their actions. Perhaps they hope that they will be free to modify their version of what happened. Both are dangerous misconceptions. As Hayes states, "Good records imply competent practice and allow for service accountability. Inadequate records too easily can suggest substandard practice."[31]

Many months often elapse between the events in question and the initiation of a lawsuit. A record of what transpired, written at the time it occurred, will help refresh memories of past events and may be used, under certain circumstances, as evidence to bolster a social worker's testimony. In addition, records are a form of institutional memory that usually can be introduced into evidence if the original maker of the record is unavailable to the court. This can be especially important for those institutions, such as hospitals and public social service agencies, that have high staff turnover.

Agencies should have carefully formulated record-keeping requirements, together with forms and instructional materials. Social workers in private practice also should develop an appropriate system of record-keeping and adhere to it diligently.[32] Case records should document fully the nature and basis of any decision or action that involves a greater than average possibility of suit. These situations are discussed next.

High-Risk Situations

Although almost any client contact can result in a lawsuit, certain types of cases carry a higher risk. These include child welfare cases, child custody cases, and nontraditional therapies. In addition, some types of clients present a higher than normal risk of suit. The prime example, of course, is a client who has violent or self-destructive propensities. Also in this category are clients who already have sued a professional, particularly another therapist, and clients who are overly critical of a previous therapist or who have unreasonably high expectations about treatment.

Fee disputes, not surprisingly, are a common precipitator of malpractice claims. Harsh reminders of unpaid bills and aggressive bill collection attempts (by the therapist, social service agency, or a bill collection agency) may push a former client who already is thinking about a lawsuit into contacting an attorney. This does not mean that social workers should allow their bills to go unpaid, but that they should be judicious in how they proceed.

Social workers should be sensitive to high-risk situations and should respond to them with care. Added attention should be paid to the contents of case records; supervisors and colleagues should be consulted; and, if appropriate, a lawyer's advice should be sought.

Finally, for self-protection, as well as for therapeutic reasons, social workers should try to stay on good terms with clients and former clients. This advice may seem of little practical utility for social workers providing involuntary services, such as child protection. For all others, though, it is worth remembering that an angry client is much more likely to sue. If a social worker senses a client's dissatisfaction, the social worker should consider talking through the client's feelings.

POLICY ISSUES

Many Americans, including many social workers, see potential liability as a powerful tool for improving the level of professional services. Schultz wrote that "For the aggrieved client, an immovable social service agency must be challenged in the 'court of last resort.' Thus, court test cases, while destructive of a worker or two, have benefit for all future children, and in some cases, for other workers as well."[33]

Yet many social workers are sued successfully for honest mistakes in judgment. A therapist who has reason to think that a client might be dangerous to others, for example, must weigh two competing legal concerns: Taking no action might result in a suit for failure to warn, but giving a warning might result in a suit for breach of confidentiality.[20] In such situations, social workers rightly feel that they are "damned if they do, and damned if they don't."

Fear of being sued is shaping social work practice. If this fear were leading to better practice, it might be worth the cost. But the available evidence suggests that liability concerns often worsen practice because they lead to defensive social work. For example, many of the unfounded reports of suspected child abuse social workers and others make, which now are flooding child protective agencies so that they cannot devote resources to children in serious danger, reflect the "better safe than sorry" syndrome.

Thus, a discussion of liability can be used to raise the crucial public policy conflict between professional values and self-protection. Child welfare cases can provide an example of how the need to maintain individual and agency accountability can be reconciled with the often inconsistent goal of guarding professional discretion. Here, the dangers of defensive social work are easily discernable, and the public interest in protecting social work discretion is clear. As a result, a number of jurisdictions have adopted various devices to protect social work discretion. Some have adopted insurance or indemnification programs; others have, through court decisions or legislation, given social workers good faith immunity from suits.

CONCLUSION

Social workers should be deeply concerned about their new legal vulnerability, but they should not be preoccupied with it. While it is true that almost any case could result in a lawsuit, most will not. By maintaining professional standards of practice and obtaining financial protection through insurance or indemnification programs, social workers can reduce their legal vulnerability substantially. The key to protection is proper professional education.

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Notes and References

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3. G. Sharwell, "Avoiding Legal Liability in the Practice of School Social Work," *Journal of Social Work Education*, 5 (October 1982), p. 17.

4. Case descriptions not otherwise attributed are based on informal or confidential material collected by the authors.

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6. *See* B. Bernstein, "Malpractice: Future Shock of the 1980s," *Social Casework*, 23 (March 1981), p. 175.

7. W. P. Prosser and W. L. Keeton, *Prosser & Keeton on Torts* (5th ed.; St. Paul, Minn.: West Publishing Co., 1984), pp. 1032–1069.

8. Ibid., pp. 1069–1071.

9. Ibid., pp. 356–385.

10. For example, it was held in one case [*Semler v. Psychiatric Institute of Washington, D.C.*, 538 F. 2d 121 (4th Cir. 1976)] that the persons under whose supervision a probationer is placed may be held liable for the probationer's reasonably foreseeable acts, in this case murder; in another [*Tarasoff v. Regents of the University of California*, 17 Cal. 3d 399, 131 Cal. Rptr. 14, 551 P. 2d 334 (Sup. Ct. 1976)] that when therapists determine, or pursuant to the standards of their profession should have determined, that a patient presents a serious danger to another, they incur an obligation to use reasonable care to protect the potential victim.

11. Doe v. New York City Department of Social Services, 649 F. 2d 134 (2nd Cir. 1981) and 709 F. 2d 782 (2nd Cir. 1983), cert. denied, 104 S. Ct. 195 (1983). In another case [*Monnell v. Department of Social Services*, 436 U.S. 658 (1978)] the court allowed local governments to be sued under section 1983 of the federal Civil Rights Act.

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22. *See* D. Besharov, "Reporting Out-of-Home Maltreatment: Penalties and Protections," *Child Welfare*, 66 (September–October 1987), pp. 399–408.

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29. Doe v. New York City Department of Social Services, 649 F. 2d 134 (2nd Cir. 1981) and 709 F. 2d 782 (2nd Cir. 1983), cert. denied, 104 S. Ct. 195 (1983).

30. Sharwell, "Learn 'Em Good," p. 40.

31. K. Hayes, "Commonly Identified Program Weaknesses in Child Protective Services," in W. Holder and K. Hayes, eds., *Malpractice and Liability in Child Protective Services* (Longmont, Colo.: Bookmakers Guild, 1984), pp. 113–117.

32. *See* J. D. Kagle, "Restoring the Clinical Record," *Social Work*, 29 (January–February 1984), pp. 46–47.

33. L. Schultz, "Preface," *Malpractice and Liability in West Virginia's Child Protective Services: A Policy Analysis* (Morgantown: West Virginia University School of Social Work, 1981), p. 10.

34. J. Fleming and B. Maximov, "The Patient or His Victim: The Therapist's Dilemma," *California Law Review*, 62 (1974), p. 1025.

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