



January 2015 Tip of the Month Attorney-Social Worker Collaboration

Submitted by Marcy Harris and Muria Kruger¹

As more legal services clinics are co-located at social services agencies and schools, there are also greater opportunities for social workers and attorneys to collaborate to meet their client's goals. While there are concerns raised with such collaborations, there are also tremendous benefits: for the client, the attorney and the social worker. January's Tip of the Month focuses on the benefits of such collaborations and provides specific examples of when such collaborations are particularly helpful. This tip also identifies limitations and potential pitfalls of such collaborations and how they might be overcome.

BENEFITS OF ATTORNEY-SOCIAL WORKER COLLABORATION

The average user of a walk-in clinic is a low-income client who faces many barriers in life. And frequently, the legal issue presented by the client on that particular day is just one small part of the overall problems the client faces every day. For example, the legal issue presented by a client may be child custody; but substance abuse, homelessness, lack of education and ability to keep a steady job may all play into the client's inability to maintain a shared custody relationship with their child. The underlying problems here are not legal per se, but as is so commonly the case, those problems have resulted in legal issues.

When attorneys collaborate with social workers to serve clients, together they should be able to more effectively serve clients. Social workers are more broadly trained in understanding global patterns that destabilize clients, how to work with individuals experiencing mental illness, and how to work in a collaborative setting. Social worker input can lead to more effective interviewing of a client and also the overall interaction with clients. Social workers can bring clarity to evaluating a client's legal issue and help to determine whether crisis intervention and/or referral to appropriate agencies are warranted. Social workers can also assist in developing a more holistic approach to addressing the legal issue presented, including non-legal aspects of the problem, and assistance in developing a plan that is achievable. Social workers are trained in making good referrals and have greater knowledge of the services available to clients and when such services are warranted. Finally, social worker and attorney stress may be lessened when more than one professional is working to assist a client with a multi-faceted approach.²

ATTORNEY-SOCIAL WORKER COLLABORATION IS HELPFUL WHEN:

Some examples of when collaboration between attorneys and social workers are beneficial include:

- ❖ The client is operating under reduced mental capacity or illness. Social worker assistance in understanding and working with clients experiencing mental illness can be invaluable.

¹ The authors are grateful for the assistance of Sheri Harris, MSW, Social Worker, Minneapolis Public Schools, Patricia Longs, Senior Case Manager, Community Action Partnership of Suburban Hennepin, and Marcus de la Garza.

² See generally, Paula Galowitz, Collaboration between Lawyers and Social Workers: Re-examining the Nature and Potential of the Relationship, 67 Fordham L. Rev. 2123 (1999). Available at: <http://irlawnet.fordham.edu/flr/vol67/iss5/16>

Additionally, social worker assistance with a client's follow-up can be especially crucial in resolving a client's legal issue (and this is true even where the client does not have a mental health issue). Finally, if there is a social worker that has an established relationship with the client, that social worker might be able to offer invaluable insight into the client's relevant history and capacity to resolve legal issues.

- ❖ The client's problems are complex and multi-faceted, including varying underlying non-legal problems, such as the example provided above regarding child custody. Often, the client is overloaded with "helpers," having to go from provider to provider. Social workers and case managers are more experienced in helping clients cope with working through different systems, assessing when a client is reaching critical "shut down" overload, and working with clients to obtain ancillary services needed to successfully resolve legal and underlying non-legal issues.
- ❖ The client needs assistance in obtaining records and documents or other follow-up. School social workers in particular are particularly adept at working within school data privacy requirements. Assisting clients in obtaining documents or applications generally falls outside the service provided by a volunteer attorney in a brief legal services clinic; however, such assistance may be needed with clients facing what appear to be daunting tasks in order to resolve their legal issues

CONCERNS RAISED BY THE ATTORNEY-SOCIAL WORKER COLLABORATION

Not surprisingly, most issues that arise in attorney-social worker collaboration revolve around either: (1) confidentiality/information sharing or (2) the ethical and legal limitations under which each professional operates.

1) *Confidentiality:*

In accordance with MN Rules of Professional Conduct, attorneys are prohibited from revealing privileged client information unless the client gives informed consent. MRPC 1.6(b). Thus, it is imperative to have the client sign an Authorization to Release Information before any discussion of the client's legal issues with a social worker. An example of such a form can be found at the bottom of this tip. Two caveats: First, the attorney must ensure that the client understands the nature of the informed consent and that the consent is voluntary. MRPC 1.4, which states "a lawyer shall promptly inform the client of any decision or circumstance with respect to which the client's informed consent ... is required by these rules," appears to require such disclosure. Second, it is appropriate to ask to speak to the client alone to assure that the client understands the Authorization to Release Information.

Such a form may also address how social workers' mandated reporting issues would be handled. Social workers are mandated reporters of child and vulnerable adult abuse. Social workers may also be obligated to report certain facts back to the organization for which they work (e.g., some organizations require that their clients remain free of any alcohol or drug use while participating in the program). The attorney does not want to make the client choose between withholding pertinent facts from the attorney or risking being reported by their social worker. The resolution, though sticky, is in the hands of the attorney. It is necessary to make sure the impact of such disclosures, if made in front of the social worker, is clear to the client. And, if reporting by a social worker is unavoidable, make sure the client has the opportunity to privately disclose additional relevant information outside of the social workers knowledge, if appropriate.

2) Ethical obligations:

There is a critical distinction between the ethical obligations of attorneys and social workers. Attorneys are ethically obligated to serve a client's stated wishes. Social workers are ethically obligated to serve a client's best interests. And, while these sound similar, they are in fact quite different. For example, a client meets with a volunteer attorney at a brief legal services clinic. During the course of this brief consultation, the attorney notes that the client appears to have mental health issues. The client is able to live on his own, but it also appears that adult children may be taking advantage of the client or, at a minimum, that the client is in a neglectful home environment and is not receiving social services due to an unwillingness to seek help. The client does not see any of these issues and is not interested in being referred to a social service provider. Should the attorney contact the county in the interests of the client's welfare? Herein lies the distinction between attorneys and social workers: the client is not interested in intervention, and the attorney must accede to the client's wishes absent the belief that disclosure of the client's perceived disability is necessary to prevent a reasonably certain death or substantial bodily harm. MRPC 1.6(b)(6). And even then, in Minnesota, disclosure is simply permitted, but not required. A social worker, by contrast, would likely be obligated to intervene.

This last limitation highlights both the pros and cons of attorney-social worker collaboration when working with a client at a legal services clinic. On the one hand, the social worker may be able to take action that would serve the best interests of the client and, ultimately, provide more and/or better life services. On the other hand, the attorney cannot divulge or allow such information to be divulged without client consent.

To the extent practicable, the limitations noted above should be discussed between attorney and social worker prior to meeting with the client, or at least prior to the client discussing his or her legal issues with the social worker present. Taking precautions designed to meet the requirements of the attorney-client relationship as well as meet the needs of the client relative to services provided by both an attorney and social worker can result in a win-win situation for all parties involved, and particularly the client. Social workers can provide invaluable services to the volunteer attorney's clients and, as feasible and appropriate, should be included to most successfully resolve a client's legal and related issues.

VOLUNTEER OPPORTUNITIES

Author Muria Kruger is the volunteer manager of The Dignity Center Legal Clinic located at the Hennepin Avenue United Methodist Church. The Dignity Center, supported by the onsite VLN legal clinic, strives to support each person on his/her path to stabilization through services that include information and referrals, resources, coaching and self-sufficiency skills training.

Author Marcy Harris is a VLN board member and Planning and Development Director at Community Action Partnership of Suburban Hennepin (CAPSH). Marcy manages the CAPSH monthly Legal Services Clinics at locations throughout suburban Hennepin County. The Clinics provide low-income clients the opportunity to speak with a volunteer attorney about legal questions and obtain information about going to court.

If you are interested in information about volunteer opportunities at either of these clinics, please contact VLN.

**AUTHORIZATION FOR RELEASE OR EXCHANGE OF INFORMATION
BETWEEN VOLUNTEER LAWYER NETWORK ATTORNEY AND SOCIAL WORKER/ADVOCATE**

Date: _____

Client(s) First Name(s): _____ Last Name(s): _____

Address: _____

Date(s) of Birth: _____

Phone number: _____ Email: _____

I hereby give permission to the VLN attorney(s) listed below to share information about the legal problems I discussed with him or her with the attorney, agency or advocate listed below. I understand that information will only be shared if the attorney thinks it will help me with my legal problems.

Name of VLN attorney(s): _____

Name of attorneys/agency/advocate: _____

This Authorization expires one year from date of signature unless specifically noted:

- I understand that I may revoke this authorization with written notification but that the revocation will not have effect on information released prior to notification of the revocation.
- The VLN attorney cannot prevent re-disclosure of information released as a result of this request

Signature of Client Date

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