

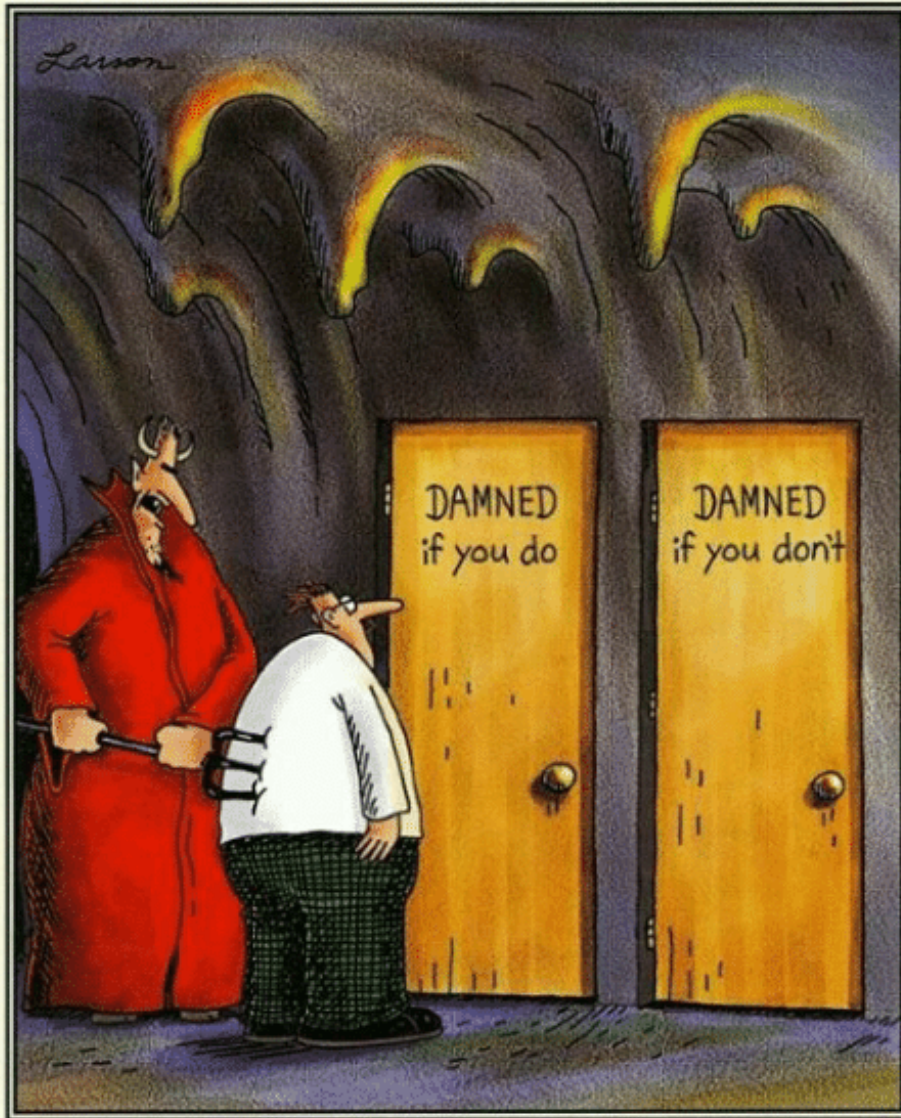
Disclosing Information to Prevent Harm

Ethical & Legal Issues to Consider

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"C'mon, c'mon—it's either one or the other."

Duty to Warn

I.45: [Psychologists would]: Share confidential information...only to the extent reasonably needed for the purpose of sharing, and only with the informed consent of those involved, or in a manner that the individuals and groups ...involved cannot be identified, except as required or justified by law, **or in circumstances of possible imminent serious bodily harm**

Duty to Warn

II.42: Do everything reasonably possible to stop or offset the consequences of actions by others when these actions are likely to cause imminent serious bodily harm to themselves or others. This may include, but is not limited to, the possibility of disclosing some confidential information to appropriate authorities (e.g., the police), an intended victim, or a family member or other support person who can intervene.

Mandatory Reporting of Child Abuse

- In Manitoba, it is the legal responsibility and duty of anyone who reasonably believes that a child is, or might be, in need of protection or suffering from child abuse, to report the information to a CFS agency or, if deemed appropriate, to a parent or guardian.
- Includes:
 - Disclosures of past abuse
 - Child pornography

Issues

- Ambiguous situations that require clinical judgment
 - Examples:
 - A client discloses a sexual attraction to children
 - A client makes a vague threat (“All CFS workers should die”)
 - A client discloses a fantasy of harming his spouse
- Different clinicians with different training & experience will evaluate risk differently
 - Varying levels of risk tolerance

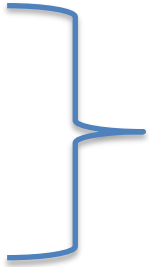
Case Law as a Guide

- Young v. Bella (2006) – Supreme Court of Canada
 - A report cannot be based wholly on conjecture and speculation
- G. (R.), Re (1999) – British Columbia
 - Pedophilic interests
 - Sexual assaults against minors
 - Identified as high risk for reoffending
 - Seeking unsupervised access to children




May be grounds
for making a
report to CFS

Case Law as a Guide

- Coquitlam Public Library Board v. Canadian Union of Public Employees, Local 561 (1997)
 - Sex offence conviction
 - Pedophilia diagnosis
 - Employment at library

Did not constitute unacceptable risk

 - Commitment to treatment
 - Use of treatment when stressed
 - Job position that did not include regular contact with children
- 
- Were all seen to mediate risk

Case Law as a Guide

- Smith v. Jones (1999) – Supreme Court of Canada
 - Setting aside solicitor-client privilege requires:
 - seriousness (being killed or suffering serious bodily harm) and
 - imminence (a sense of urgency).
 - Is there a clear risk to an identifiable person or group of persons?
 - Is there a risk of serious bodily harm or death?
 - Is the danger imminent?

Action Plan

- Be familiar with:
 - Legislation (mandatory & case law)
 - Code of ethics
 - Research on risk
- Have a detailed informed consent process
- Minimize harm associated with reporting
 - Involve the client as much as possible
 - Attend to impact on therapeutic relationship
- Consult with colleagues
- Consult with child protection services
- Report the minimum necessary information to prevent harm
- Document



References

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