

Abortion Care in Jurisdictions Restricting Access: Helping Students Navigate Ethical Issues



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Learning Outcomes

After this workshop, participants will be able to:

- Describe how recently passed laws prohibiting or restricting abortion care affect social workers who may be asked by clients to assist with access to abortion care inside or outside their states.
- Engage students in discussions of the ways that health and social disparities affect access to abortion care.
- Provide social work students with a framework for managing ethical dilemmas when their ethical obligations regarding informed consent and self-determination conflict with laws that restrict or prohibit abortion care.



Agenda

Introduction

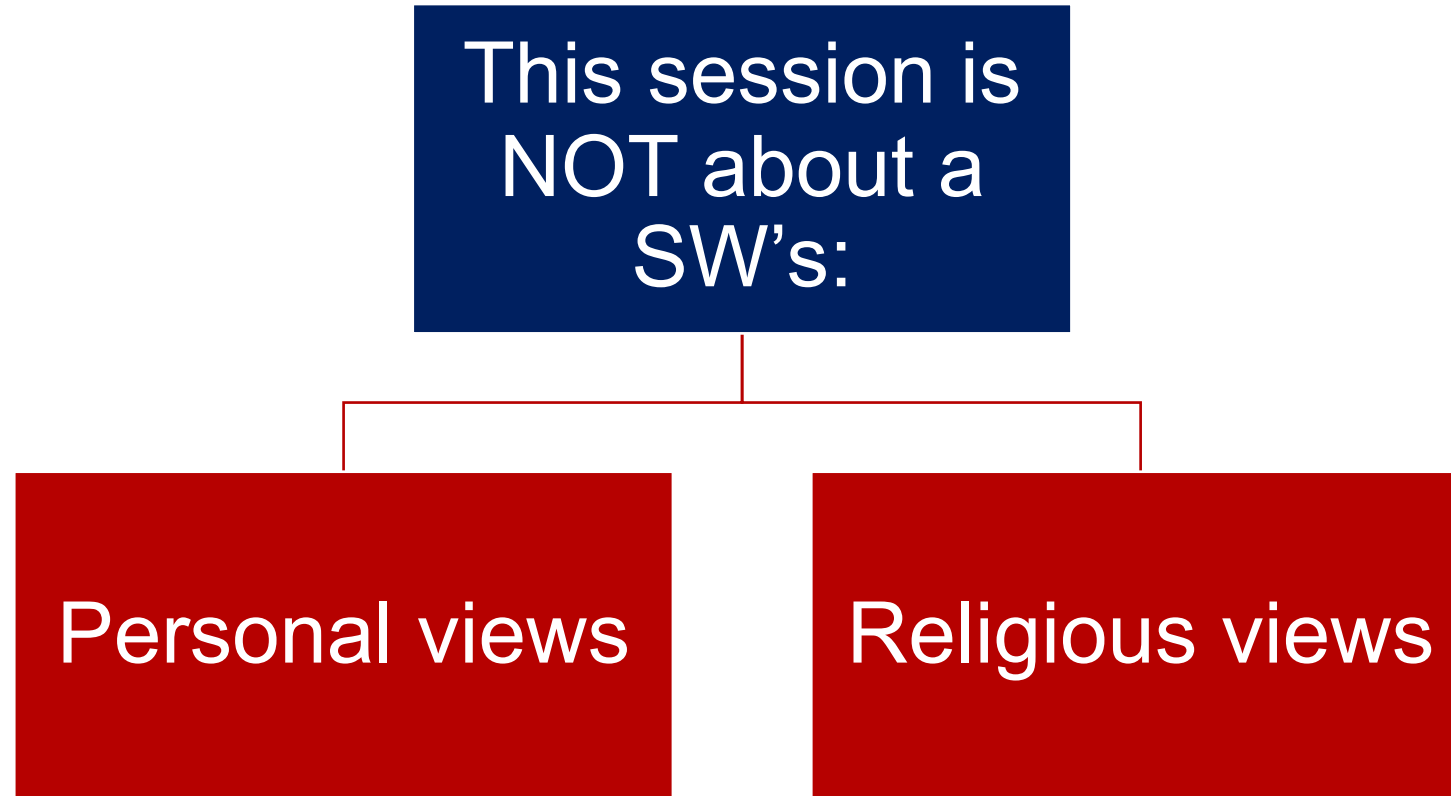
Abortion Laws

Ethical Obligations

Managing Dilemmas

Questions & Takeaways

Introduction



This session is about

Abortion laws

SW's ethical obligations

Options

Dilemmas

In states with
restrictions or
outright bans on
abortion

Note: Content of this session does touch on issues that may be emotionally challenging.

BSW roles may include:

case management

assessment and referral

advocacy for clients

education

facilitation / mediation

individual, family, and group counseling

community development and policy

other?

Consider: How may SWs in each of these roles become involved in ethics situations related to abortion care?



Legal Knowledge

How familiar are you with the current statutes and case law regulating abortion in your state?

1. I do not know them at all.
2. I think that I know them somewhat, but I'm not certain.
3. I'm very familiar with them.
4. I'm an expert on them and I should be teaching this class. 😊

Abortion Laws: Cases & Statutes

- *Roe v. Wade* (1973)
- *Dobbs* (2022)

Post-Dobbs

- Trigger laws
- State regulations, bans & restrictions
- State constitutions
- Expanded rights
- Surgical vs. Medical Abortion

Need to know

Laws in your state

Laws in state where
your client is located

Case law & current
challenges

Example: Mavis (SW in NH) providing tele-SW to client in Texas. Texas has a ban on abortions after 6 weeks. Private citizens may sue people that they suspect of being involved with abortions (“bounty laws”).

Types of Bans and Restrictions

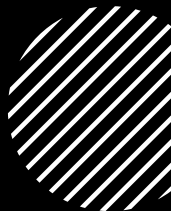
- 15 weeks
- 6 weeks
- Outright ban
- W or W/O exceptions for rape, incest, fetal abnormalities, life of mother...
- Counseling
- Waiting period
- No coverage by insurance
- Fetal personhood statutes (and cases)
- Other... see Guttmacher
(<https://www.guttmacher.org/state-policy/explore/overview-abortion-laws>)

Frozen embryos have the rights of personhood - *Lepage et al. v. Center for Reproductive Medicine et al.* (2024). Alabama. <https://publicportal-api.alappeals.gov/courts/68f021c4-6a44-4735-9a76-5360b2e8af13/cms/case/343D203A-B13D-463A-8176-C46E3AE4F695/docketentrydocuments/E3D95592-3CBE-4384-AFA6-063D4595AA1D>

Reingold et al., 2022



Framework for Managing Ethical Issues (Barsky, 2023)



1. Identify Ethical Issues



2. Determine Appropriate Help



3. Think Critically



4. Manage Conflict



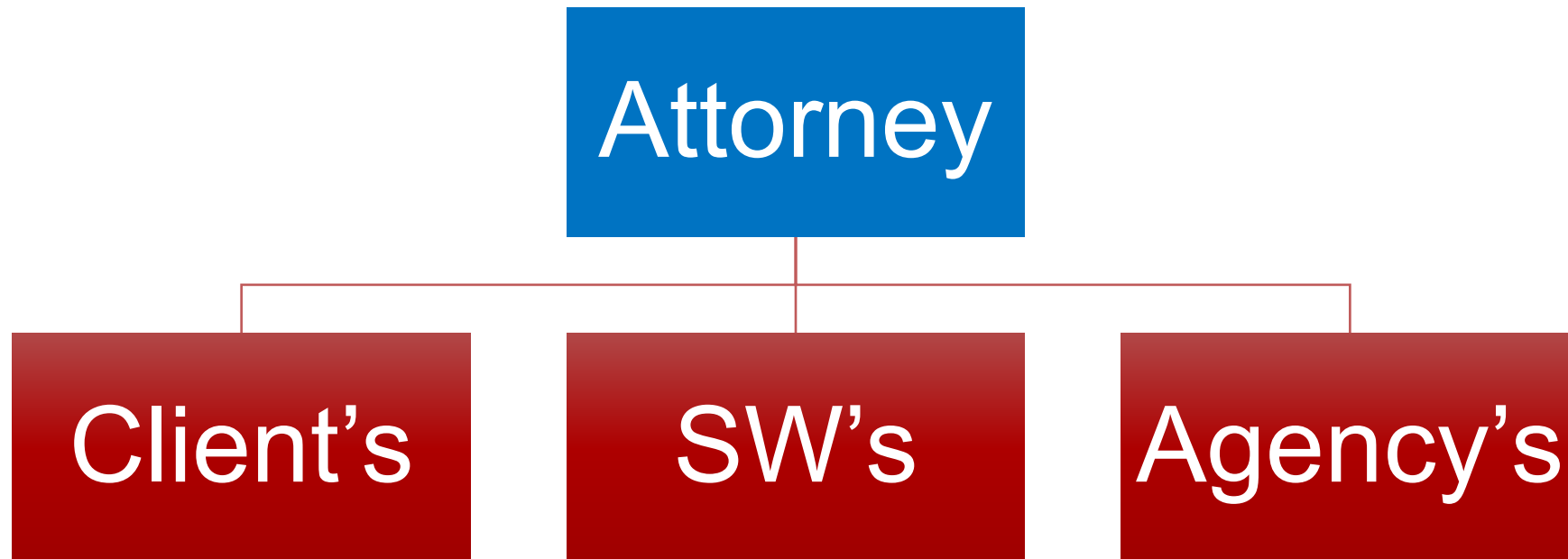
5. Plan and Implement Decisions



6. Evaluate and Follow Up

Loop back to earlier stages as needed

Obtaining Legal Advice



Other Types of Help

Clinical supervision

Clinical consultation

Ethics consultation

Licensing consultation

Liability insurance

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Think Critically

- Reflect on one's own values, virtues, attitudes, beliefs, motivations, emotions, capacities, challenges, and social context (virtue ethics)
- Consider multiple perspectives (narrative ethics)
- Define goals for the ethical management process
- Identify and weigh obligations (legalism, deontology)
- Brainstorm options and assess consequences (teleology)

Health & Social Disparities

- Access to health care, generally
- Access to contraception
- Black women and other women of color
- Access to abortion
 - Poverty, low income
 - Restrictions on insurance
 - Travel (rural areas, states with restrictions)
 - Work
 - Stigma
 - Religious beliefs – individual and family
 - Minors

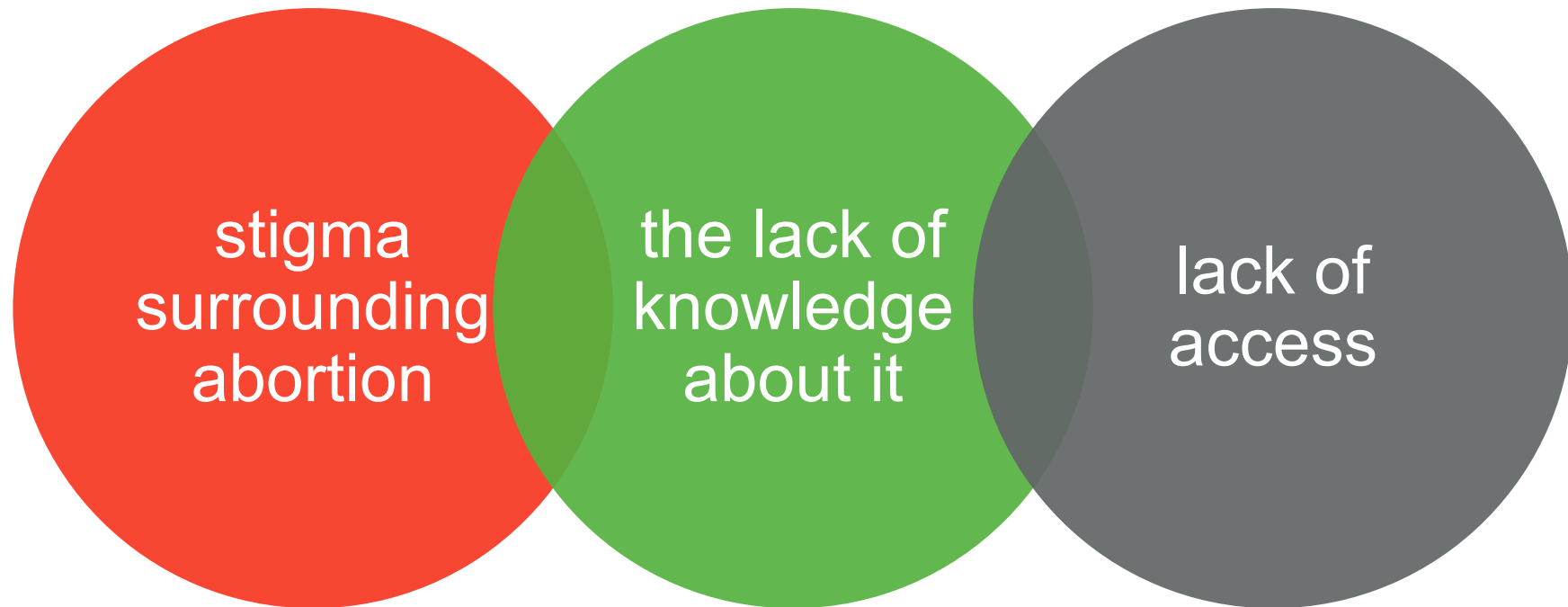
Abrams, 2022
Aguilar et al., 2023
Boonstra, 2022

Additional Stigma re Abortion Care

People who identify as

- Transgender men
- Gender nonbinary

Negative Impact on Mental Health



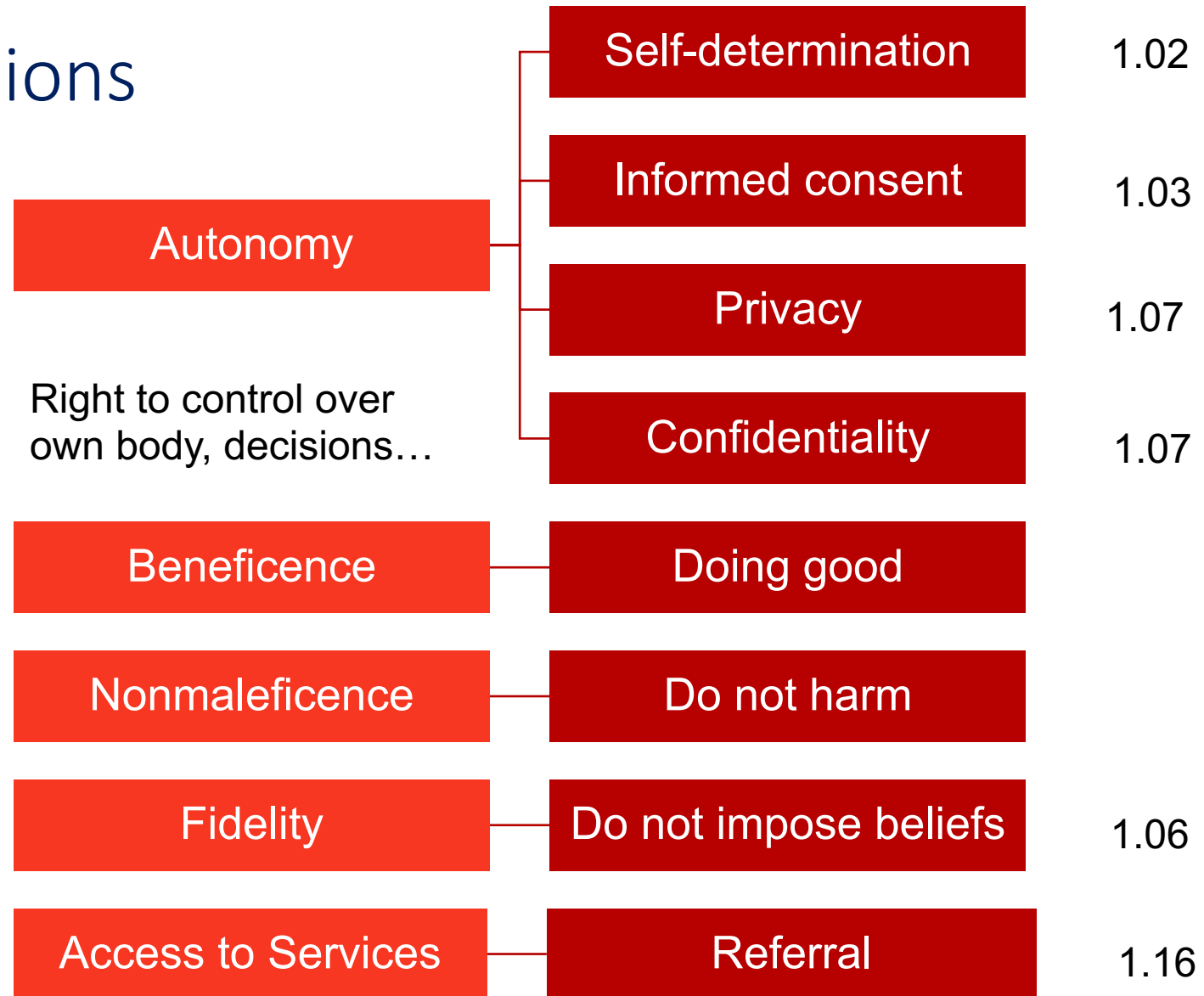
Abrams, 2023

Myth

People who have an abortion are certain to experience deep regret, grief, or even posttraumatic stress disorder.

Abrams, 2023

Ethical Obligations



Situation: Unsafe Abortion

- Denise lives in state where abortion is prohibited
- Advises SW that she plans to seek an abortion from person who lacks medical training
- SW concerned about Denise's safety

What should SW do?

1. Report Denise to child protective services
2. Report person providing abortions to police
3. Respect Denise's privacy and wishes
4. Discourage Denise from having an abortion
5. Discuss other options with Denise

Options to Consider

Discuss reasons Denise is seeking abortion, and if appropriate, discuss alternatives

Medication abortion

Other state or country

Seek medical and legal advice (possible exceptions to ban or restriction)

Laws vs. Ethics – potential conflict

| | Legal | Illegal |
|-----------|------------------------|--------------------------|
| Ethical | A. Ethical and Legal | B. Ethical but illegal |
| Unethical | C. Unethical but legal | D. Unethical and Illegal |

When laws are unethical – work to change the laws (COE Pt.6)

What Does the NASW Code of Ethics Say?

Preamble:

“Instances may arise when social workers’ ethical obligations conflict with agency policies or relevant laws or regulations. When such conflicts occur, social workers must make a responsible effort to resolve the conflict in a manner that is consistent with the values, principles, and standards expressed in this Code. If a reasonable resolution of the conflict does not appear possible, social workers should seek proper consultation before making a decision.”

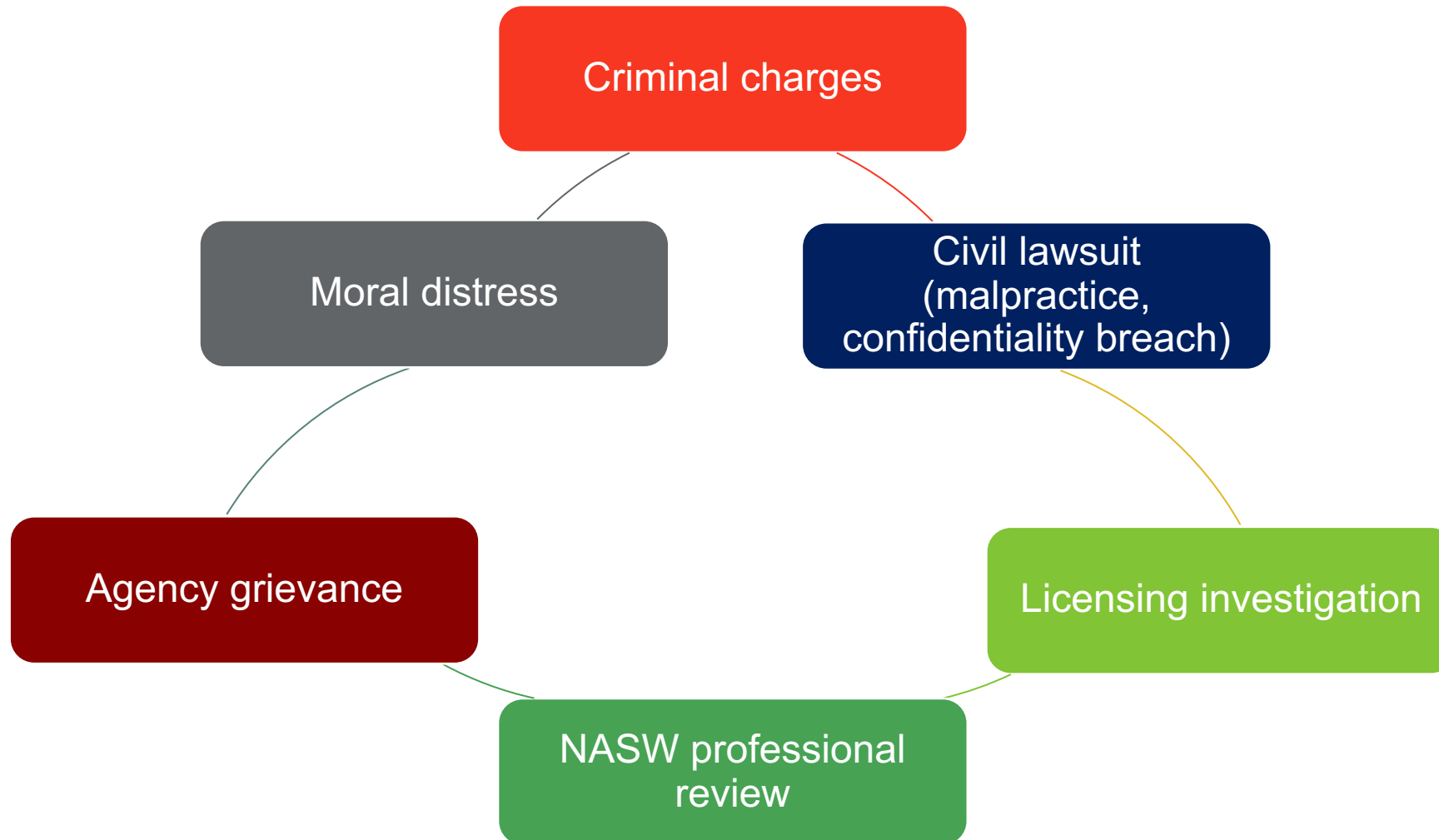
Ethical Justifications for Breaking Law?

E.g., helping a client obtain an abortion in another state when law prohibits doing so

- Higher ethical purpose?
- Civil disobedience?
- Surreptitious or open violation?
- If law is unconstitutional, is it breaking the law?
- Consider consequences – for client, for you, for agency, for profession...



Risks to SWs



Act Prudently

- Obtain consultation and advice
- Work with groups that have expertise
- Documentation
 - Limited documentation to protect privacy?
 - Detailed documentation to support case in court?
- Consider long-term vs. short-term strategies
 - ST: Helping this client now
 - LT: Policy and law reform)

Situation: Life Endangered

- Fēn has been seeking abortion due to hemorrhaging and fever due to infection
- State law has exception for life of mother, but doctors are refusing to provide abortion (“death not imminent”)
- SW’s role, responsibility, and options?
- Assume state law prohibits people from aiding or abetting abortions

Group Discussion:

1. What is the ethical issue?
2. From whom would you seek help?
3. How would you think critically, considering
 - Self-awareness
 - Other awareness
 - Legal and ethical duties
 - Options (benefits, risks, downsides)

Situation: Warrant

- Rene tells you that she took her daughter to another state to have an abortion (assume this violates state law)
- You document this in your files
- Police come to your office with search warrant, requesting Rene's files
- How do you respond?
- Should you have documented? What is "sufficient...documentation...to ensure continuity of services" (s.3.04).

Situation: Out-of-State Request

- Swati (SW) lives in state permitting abortions
- Receives request for help with accessing abortion
- Client from state that prohibits abortion
- What does SW need to know?
- What options should SW consider with client?
- What potential barriers to access could SW help with?
- Could even searching for online information about abortions create risks for Swati or client?



Questions?

Conclusions

| | |
|-----------------|---|
| Know | relevant laws – your state, client’s, other? |
| Discuss | options |
| Consult | attorney, supervisor, other agencies... as needed |
| Manage | conflicting legal and ethical obligations |
| Document | judiciously |

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