

Gender-Affirming Care: Legislative Restrictions, Ethical Issues, and Options

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Learning Outcomes

Describe

how recent laws restricting access to GAMC affect TGD minors and adults

Engage

students in critical thinking to analyze ethical dilemmas related to legislative restrictions to gender-affirming

Educate

students about how to brainstorm options for clients unable to access gender-affirming care in their states

True or false:

If a state or national law prohibits gender-affirming medical care for minors, then this law supersedes my ethical duty to provide clients with access to medically necessary GAMC?

- True
- False
- I am uncertain

Agenda

Introduction: Focus & Key Concepts

Relevant Laws

Identifying Conflicting Legal-Ethical Obligations

Brainstorming Options

Determining Best Course of Action

Questions and Discussion

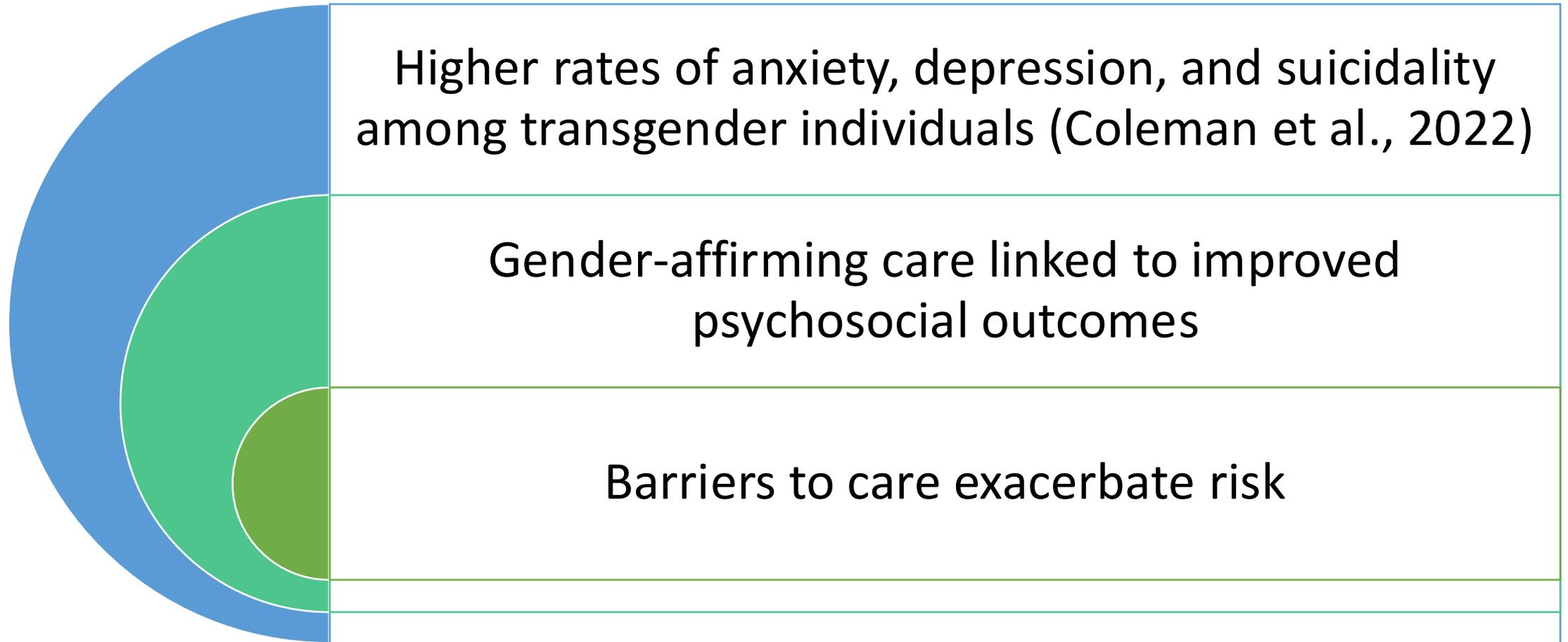
Key Takeaways



Focus

- Access to Gender-Affirming Care (GAC) for Transgender and Gender Diverse (TGD) minors and adults
- Legal rights, restrictions, and prohibitions
- Ethical responsibilities
- Managing ethical-legal conflicts effectively

Context: Mental Health and GAC



Caveat Emptor

- Statutes and case law are complex, may change, and may be subject to different interpretations
- Questions about specific laws or cases may require legal advice
- This workshop focuses on social workers' ethical and legal responsibilities, not their personal, religious, political, or spiritual beliefs (though important to be self-aware)

Introduction: First and foremost...

Trans
people are

people

Worthy of respect, dignity,
and equal protection of the law...

Key Concepts

- Gender identity
- Gender expression
- Transgender
- Gender diverse
- Gender-affirming care
- Gender-affirming medical care
- Gender dysphoria
- Social transition



Key Concepts



Relevant Laws

- Since 2020, approximately 26 states have passed laws banning or restricting access to GAMC
- Bans – primarily focus on minors
- Restrictions – primarily focus on adults
- Specific medical interventions
 - Hormone Blockers
 - Hormone Replacement Therapies
 - GA Surgeries

Donald Trump – executive order prohibiting GAMC for minors (White House, 2025a; 2025b)

List of laws: Human Rights Campaign, 2024

Examples of GAMC Restrictions

- Requirement of “in-person” consent with medical provider
- Only MDs/ODs can provide or prescribe GAMC (not nurses, PAs)
- Medicaid not allowed to pay for GAMC
- Restrictions on whether private insurance can pay
- Indirect restrictions: e.g., laws preventing school personnel from discussing gender with students, or requiring them to disclose LGBTQ status to parents
- Laws erasing transgender identity
- Laws prohibiting transgender people from military service, etc.

Arguments by Proponents of Bans and Restrictions

- GAMC – harmful, irreversible
- No such thing as TGD – sex is immutable
- State should not have to pay for GAMC
- Minors cannot understand the consequences of GAMC
- Gender may change--patients may regret GAMC
- Violates religious beliefs about sex, gender, and biblical teachings
- State has responsibility to protect people from harm
- Insufficient research

Arguments by Opponents of Bans and Restrictions

- Primary constitutional argument: Equal protection of the law
- Bans are discriminatory
- Bodily autonomy
- TGD person in best position to know what is best for them
- GAMC improves mental health, lowers risk of depression and anxiety, prevents suicide, and enhances social functioning (school, work...)
- Bans create ethical conflicts for SWs and other health providers who are legally constrained yet ethically obligated to promote client wellbeing

The logo for GLAAD is displayed in white lowercase letters on a vibrant rainbow flag background. The flag's colors are red, orange, yellow, green, blue, and purple, arranged in diagonal stripes. The GLAAD logo is positioned on the left side of the slide, partially overlapping the flag's stripes.

glaad

Professional Associations Supporting Access to GAMC

- American Academy of Child and Adolescent Psychiatry
- American Academy of Family Physicians
- American Academy of Pediatrics
- American Medical Association
- American Psychological Association
- National Association of Social Workers
- World Professional Association for Transgender Health (maintains evidence-based standards of practice)

(GLAAD, 2024)

Concerns for Further Research

- Long-term impacts of each type of GAMC
- How common are “regret” and “detransition”
- What are causes of “regret” and “detransition” (e.g., financial issues, continuing experiences of discrimination)
- Factors associated with positive outcomes
- Standards of practice – WPATH

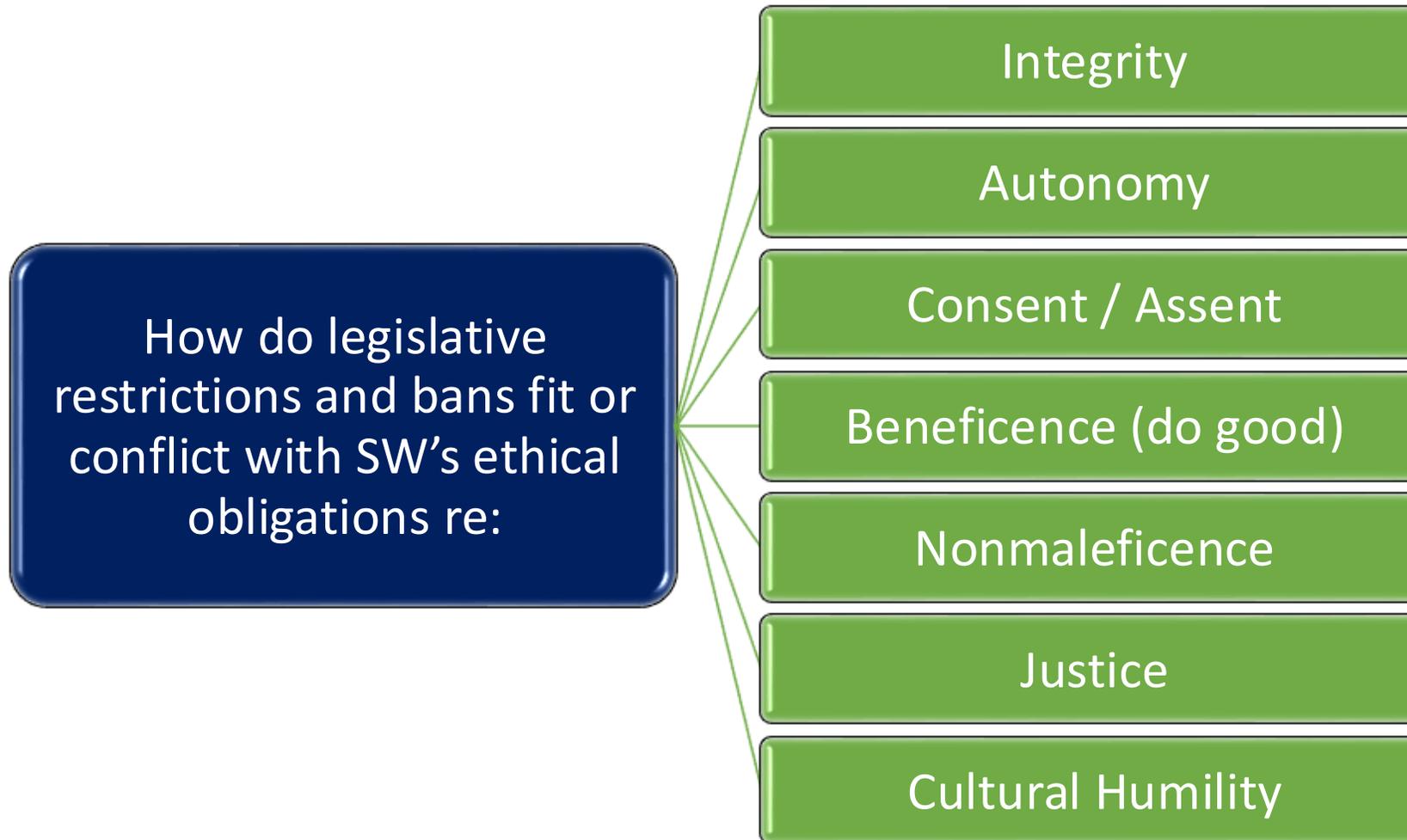
(Coleman et al., 2022)



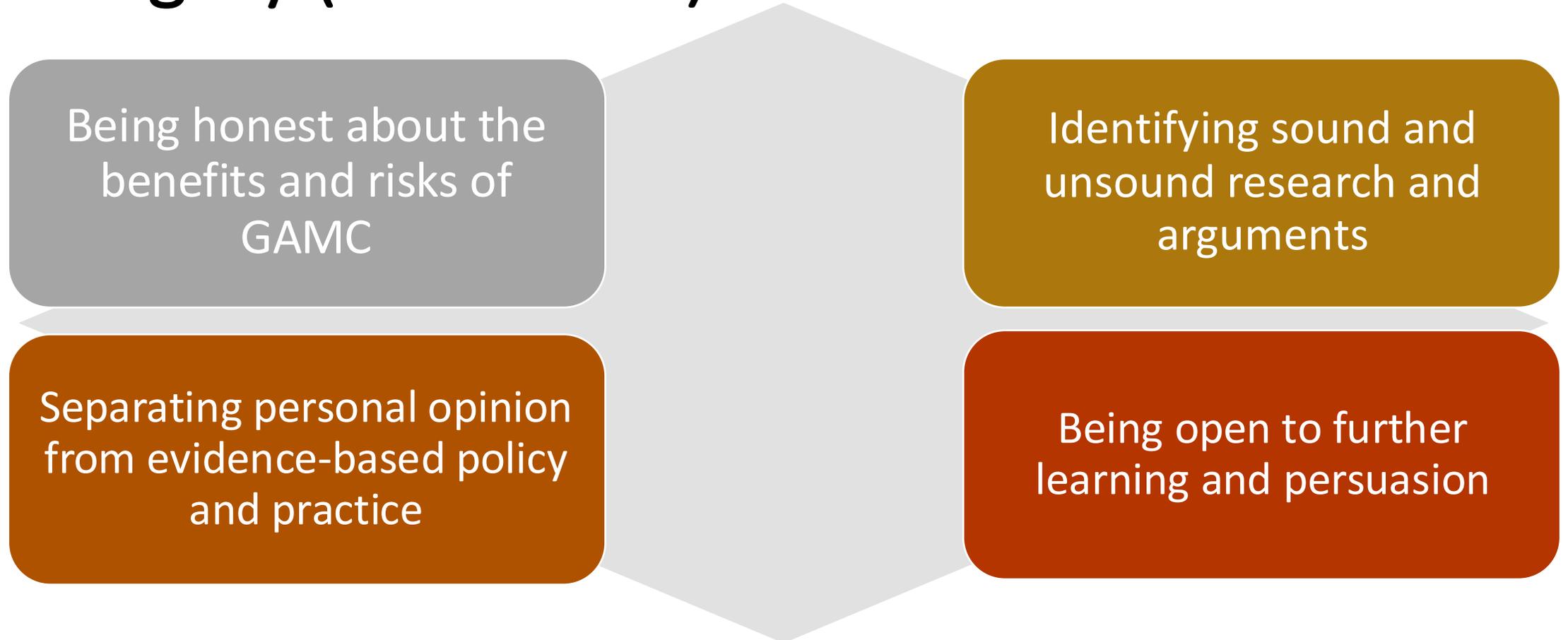
SW Roles

- Assessment and psychosocial support
- Psychoeducation and counseling:
Individual, Family, and group
- Referrals and care coordination
- Advocacy and systems navigation

Ethical-Legal Conflicts

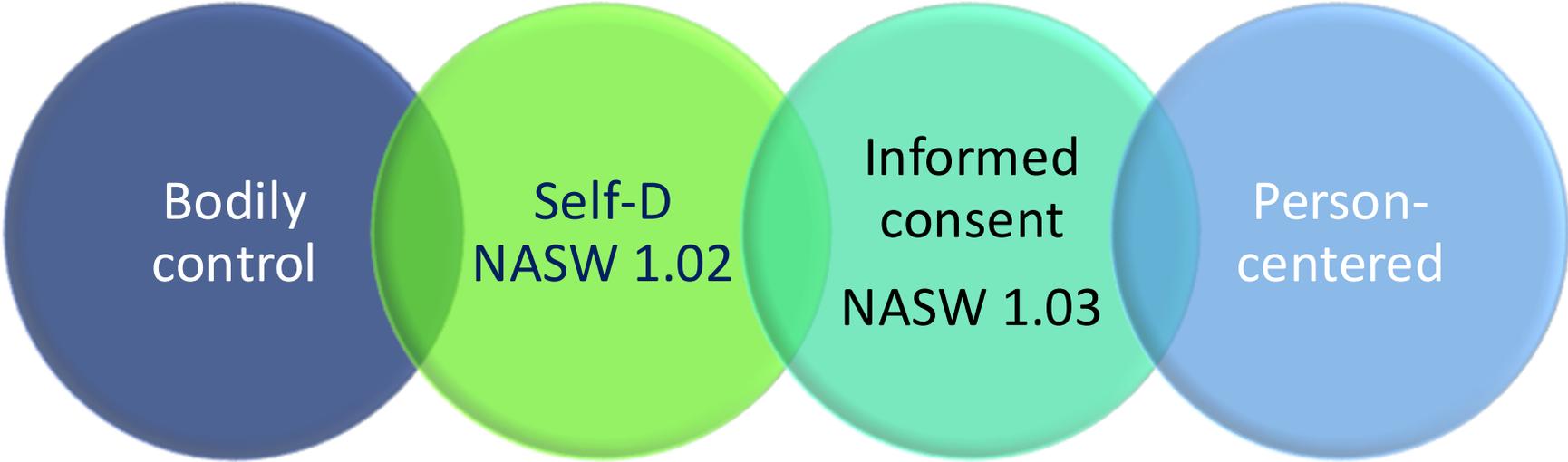


Integrity (COE s.4.04)



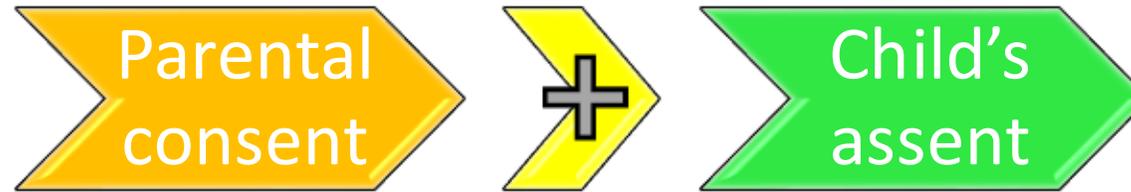
Challenge: Integrity within legal constraints – Ethical resistance vs. compliance
[situation of “moral distress”]

Autonomy



Right to Make Own Healthcare Decisions

Autonomy re Minors



Youth, Parents, and the State

Who has decisional authority?

Conflicts between:

Youth autonomy

Parental consent (NASW,
s.1.03)

State intervention

Taking age and
cognitive ability and
developmental
stage into account

Help for TGD Minors

- Counseling and support – most common
- Screening for anxiety, depression, suicidal ideation, experiences of discrimination
- Diagnosis re gender dysphoria – is it needed now?
- Assistance with social transitioning
- Hormone blockers – why not wait until 18?
- Hormone treatments – less common
- Surgery – rare for minors
- WPATH – individualized, evidence-based

Beneficence: Doing good

What are the benefits of a particular type of GAMC for a particular client?

Nonmaleficence: Do no harm



What are the risks of a particular type of GAMC with a particular person?

Many medical interventions have risks

Do the benefits outweigh the risks?

What if we do not know the risks with certainty?

Autonomy – Should the client, government, physician, or government decide what risks TGD individuals can take?

Justice, Social Justice, and Advocacy

- Equality (constitutionally protected) – Why are TGD individuals denied needed healthcare when other have freedom to decide?
- Fairness and freedom from discrimination
- Impact on the most vulnerable
 - Lack of financial resources (to afford treatment out of state)
 - Lack of knowledge about options and resources
 - People already at risk of harassment, abuse, mental health concerns
 - Increasing incidents of hate crimes and discrimination



Cultural Humility

- Awareness of our own beliefs, convictions, and biases
- Treating clients as experts in their own lives
- Not assuming we know what is best for others
- Commitment to ongoing learning



Privacy, Confidentiality, and Documentation

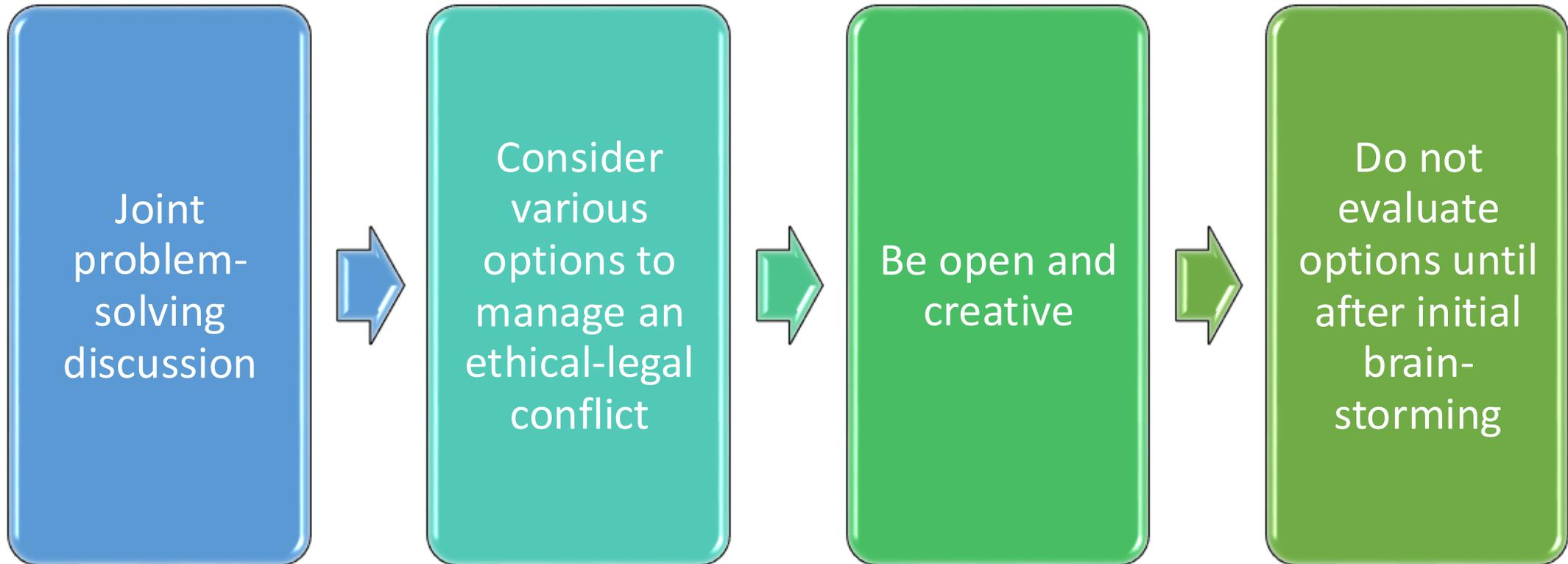
COE Standards 1.07 & 3.04

- Risk-aware documentation (over-documentation vs. under-documentation)
- Privacy under legal scrutiny
- Transparency with clients

Options for SWs to help...?

- Do nothing
- Help client cope with restrictions/bans
- Help client access care within state (help with funding, resources, legal advocacy, technology, case management)
- Help client access care outside of state (e.g., write WPATH letters)
- Careful about what SW documents
- Help client with social transitions
- Inform client about resources – e.g., hormones available online
- Advocate to change laws

Brainstorming



Situation A: Client Accessing Hormones from Gray Market



- Your state law cuts off access to Medicaid funding for GAMC
- You discover a client is purchasing hormones from a source that may be illegal and perhaps risky
- What are your ethical duties?
 1. Report to police
 2. Maintain confidentiality
 3. Convince client to stop
 4. Other (specify)

Situation B: Child with Suicidal Ideation

- You are working with a transgender client (11) at risk of suicide
- You believe this client would benefit from hormone blockers
- Your state bans hormone blockers for minors
- Which ethical principles should be considered?
- What options should you, the client, and parents consider? Benefits and risks of each?
- Does helping the client obtain hormone blockers in another state put you at risk?



Risk Management Considerations

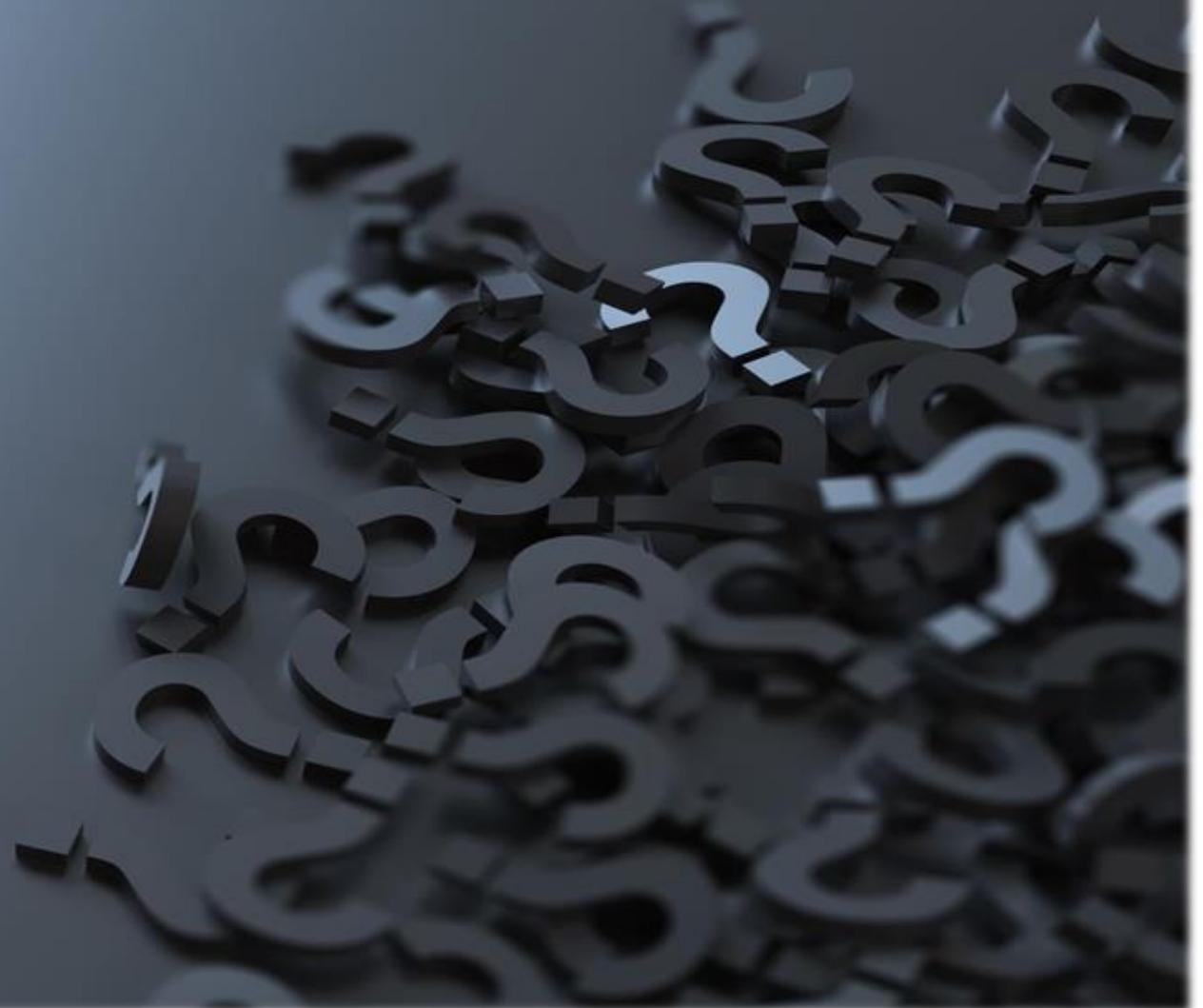
Consider

- Licensure
- Employment
- Liability
- Supervision and consultation
- Documentation

What SW educators can do...

- Integrate contemporary case law into curriculum
- Use real-world ethical dilemmas
- Support student advocacy skills
- Model ethical courage and humility in situations of moral distress
- Protect students while preparing them for practice realities

Questions ?



Key Takeaways

Know state laws

Consult with attorneys, medical providers...

Act with integrity

Consider options to facilitate access to care

Use evidence-based standards and practices

Respect client choice and autonomy

Connect client with resources

Advocate – particular clients, laws, policies

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