Division of Prevention and Behavioral Health Services
Department of Services for Children Youth and Their Families
State of Delaware

ADM 004	POLICY ON ETHICS	
Authored by:	Randall Wimberley, Helena Carter, Bob Dunleavy, Carol Harmon, Charles Webb	Title: Ethics Committee
Approved by:	Susan Cycyk, M. ED.	Title: Division Director
Signature:		Date: 10/3/97 rev. 12/19/99; 06/26/03; 11/7/05, 7/20/06, 12/16/08, 4/16/10, 9/20/11

PURPOSE

The Division of Prevention and Behavioral Health (DPBHS) is committed to the highest standards of professional and business conduct and client care. It is therefore expected that all Division of Prevention and Behavioral Health employees and network providers will adhere to comprehensive ethical principles in serving DPBHS clients. The purpose of this document is to provide general ethical guidelines and information for DPBHS clients and families, staff, and to act as a framework for DPBHS providers to establish their respective ethics policies and procedures.

Divisional ethics documents will be made available to DPBHS clients and their families, staff, providers, and Advisory Council through appropriate means[1].

The Department's vision of a system of care promotes supportive communities and strong families. Seven principles guide practice. Practice is individualized and includes strength-based solutions. Services are appropriate in type and duration. Care is child-centered and family focused. Care is community-based. Care is culturally competent. Care is seamless, within and across systems. Teams develop and manage care.

SCOPE OF APPLICABILITY

Central Operations

The minimum standard for professional conduct at the network central operations level is established by the State Employees, Officers' and Officials' Code of Conduct, 29 Del. C. § 5804 et. seq. Individuals within the Division of Prevention and Behavioral Health Services may also be subject to professional ethics codes by virtue of licensure requirements or membership in professional organizations, e.g. American College of Health Care Executives, National Association of Social Workers, American Psychological Association, American Medical Association, etc. While such adjunctive professional codes may compel an employee to adhere to stricter ethical standards, in no instance can such ethical standards be interpreted to sanction actions which do not meet the standards established by the State Code.

DPBHS Ethics Committee Responsibilies

The DPBHS Ethics Committee does not issue formal advisory opinions, but will work with those concerned on a case by case basis to identify applicable resources, principles and regulations.

Supervisors, providers, service staff and others seeking advisory opinions may be directed to the Public Integrity Commission, merit system rules, Division of Professional Regulations, Provider Agency, Division of Family Services or Waste, Fraud and Abuse hotline. If the situation cannot be resolved to the satisfaction of the Ethics Committee and referring parties, or if a formal advisory opinion is indicated, the Ethics Committee will present the case to the DPBHS Director along with a recommended course of action. The decision of the DPBHS Director is final.

DPBHS Service Network Providers

All DPBHS providers must have written ethical standards which address the care and treatment of clients; marketing, billing, admission and discharge practices; conflict of interest and avoidance of impropriety. The minimum ethical standards for business and professional conduct at the network provider level are established by applicable State licensing standards and regulation (e.g. Delacare), federal regulation and the guidelines contained herein. However, stricter requirements may be imposed on accredited providers by the accrediting organization and on professional network staff by professional associations, licensure, or this policy. Finally, provider agencies and professionals must meet the ethical standards set by the DSCYF Operating Guidelines and DPBHS Ethics Policy and Procedure in their services to DPBHS clients and families.

POLICY

I. Professional Conduct and Conflicts of Interest

Employees should not use their positions, and providers should not use network membership, to secure unwarranted privileges or gain. Actual conflicts of interest, as well as the appearance of conflict, must be avoided. In general, potential conflicts of interest may arise when the self-interest of an employee or provider interferes with the employee/provider's independence of judgment or is in substantial conflict with the proper performance of the employee/provider's duties, or otherwise undermines public confidence in services provided by or through the Division.

There are no incentives or risks to DPBHS employees for following appropriate level of care guidelines and other policies and procedures to facilitate and authorize care no matter what provider is selected or costs are incurred.

DPBHS provider contracts permit self referral to levels of care for which the referral agent is a provider but these must be evaluated and approved by the client, custodian, and DPBHS care management team. Provider contracts, including performance based contracting, will be written in a manner to avoid incentives that would encourage unethical behavior.

Examples of potential conflicts of interest include, but are not limited to:

- Making treatment and service decisions about a DPBHS client while also seeing the client and/or family in "private" (i.e. non-DPBHS network) therapy.
- Providing private post discharge treatment to former DPBHS clients, or seeing clients in a professional DPBHS capacity with whom a clinician has provided private treatment in the past.
- Referring clients to programs or providers where one has a personal stake, e.g. DPBHS staff referring clients to network providers in which a DPBHS staff person has an ownership interest, or network providers referring clients on discharge to programs owned or controlled by those providers.
- Failing to discharge a client as soon as clinically feasible as a result of a provider's self-interest, because the client is a stabilizing influence in a program, or a provider needs the revenue/census provided by the client.

II. Marketing, admission and billing practices

Admission, discharge and billing practices must be implemented in a way which preserves the dignity of clients and to the greatest extent possible facilitates clients' best interests.

- Marketing/information dissemination efforts should be careful not to encourage potential clients, explicitly or implicitly, to seek out a provider or treatment modality for treatments that are

clinically unnecessary or inappropriate for the presenting condition.

- Admission decisions should reflect clinically appropriate treatment for a client's presenting problem.
- DPBHS providers should not bill DPBHS, unless the service is specifically authorized.
- DPBHS provider discharge recommendations should reflect clinically appropriate levels of care and relevant therapeutic considerations.

III. Care And Treatment Of Network Clients

All clients and their families have basic rights and responsibilities as participants in the DPBHS managed care treatment network:

A. Access to Care - Clients and their parents have the right to reasonable access to treatment as determined by DPBHS eligibility criteria, regardless of race, religion, gender, sexual orientation, ethnicity, age, or disability. All clients for whom treatment is deemed to be clinically necessary and who meet DPBHS eligibility criteria may receive services from DPBHS. See DPBHS Eligibility Policy.

B. Care which is Considerate - Clients and their parents have the right to be treated fairly, with respect and in a manner which preserves their personal dignity. DPBHS strives to provide services which are sensitive to the individual and family's personal and spiritual beliefs, religious beliefs and cultural context.

C. Complaint Resolution - Clients and their parents/legal guardians have the right to express concerns about treatment. Children who are clients and their families are encouraged to share their questions and concerns about treatment with service providers and/or their DPBHS managed care teams so that these concerns can be addressed. If a client/family is dissatisfied with decisions, services or the composition of the service delivery team provided by the Division and a satisfactory solution can not be worked out with the appropriate care manager, the parent(s) or legal guardian(s) may file a complaint. See DPBHS Appeal and Complaint Policies.

D. Appropriate Care - Children and youth have the right to competent individualized treatment in the least restrictive environment. Treatment should be provided in the clinically appropriate setting which most closely resembles the child's natural environment. For example, extended hospitalization is unwarranted when a community based RTC is clinically appropriate; and day treatment is unwarranted when intensive home based family treatment is clinically indicated. New services developed by the network will be based on safety, efficacy, efficiency, costs, and will be consistent with best practice/evidence based models.

E. Privacy and Confidentiality - Clients and their families have the right to personal privacy and confidentiality. DPBHS values the confidentiality of information about children and their families. DPBHS, other Departmental staff and network providers operate on a need to know basis. Access and use of information is limited to that which is necessary to complete tasks related to the case. Although the Department maintains a computerized client information system in which confidential data is stored, such electronic information is protected by computer access and security procedures. Except in emergencies, confidential information will not be released outside of Department care managers and network providers without the parent/legal guardian's consent. Although parents have the right to limit access to their child's clinical information, there are exceptions where federal or state laws and regulations or the Department's confidentiality policy may require otherwise. For example, there are special strict rules regarding substance abuse, HIV status, sexually transmitted diseases and pregnancy which may require children older than 12 years to sign releases about such information. In addition, staff and network providers may be required by law to report sexual exploitation of a minor, child abuse, neglect, or a threat of harm to self or others. See Department Confidentiality Policy and DPBHS consent procedures; also DFS Reporting Policy.

F. Informed Participation and Consent - Clients and their families have the *right to informed* participation in assessment, planning and treatment and decisions regard

are required to participate in treatment. Not only do clients and their families have the right to informed participation in decisions regarding care and services, they also have the responsibility to participate in treatment related activities such as family therapy sessions; treatment planning sessions and other treatment related meetings; court hearings, foster care review meetings and other relevant meetings. Legal guardians may consent for most services in lieu of the parent. In some cases, the legal custodian alone may consent, although it is the policy of DPBHS to obtain parent/guardian consent whenever feasible. Under some circumstances, minors may consent to certain procedures, and such consent may be confidential. Despite DPBHS efforts to plan for appropriate treatment, legally responsible adults may withdraw the client from treatment and may refuse medication for the client. Although the client has these rights from the DPBHS perspective, if the treatment is court-ordered, there may be legal consequences for failure to comply with a court order. See Department Confidentiality Policy and DPBHS consent procedures.

G. Providing Information - Parents are required to provide clinical, family and financial information necessary to determine eligibility for DPBHS services. This includes information necessary for DPBHS to enroll the client and/or family in available government programs such as Medicaid. Information that will be requested includes information about income and private insurance. DPBHS will provide families information regarding advocacy groups, legal resources, support services and mental health and substance abuse issues.

H. Clinical Trials and Research - No client may participate in clinical trials, experiments or research unless (1) all features, risks and benefits of the proposed research are explained fully to the client and the client's parent or legal guardian, including impact on the client's current treatment regimen, and (2) the assent of the client freely is given without coercion of any kind, and (3) the voluntary consent of the parent or legal guardian is obtained. The client and parent/legal guardian must have complete freedom to choose to participate or not participate, as well as freedom to choose to discontinue participation in the research at any time without adverse consequences. Research protocols and procedures must be pre-approved by an appropriate IRB (Institutional Review Board).

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[1] Web Links:
Div. of Professional Regulation: http://dpr.delaware.gov/default.shtml
Public Integrity commission: http://www.state.de.us/pic/divisions.shtml
Provider Manual: http://www.state.de.us/kids/pdfs/dscyf_operating_guidelines_ccps_2005.pdf
Delacare: http://www.state.de.us/kids/occl_resources.htm#occlregs
DSCYF Web Page: http://www.state.de.us/kids/school.htm
State Code of Conduct: http://www.delcode.state.de.us/title29/c058/sc01/index.htm
Waste, Fraud and Abuse Hotline http://auditor.delaware.gov
Merit System Rules: http://www.delawarepersonnel.com/mrules/documents/mrules_all_123103.pdf
DFS Webpage: http://kids.delaware.gov/fs/fs.shtml
Operating Guidelines: copy attached to policy
Federation of Families: http://www.ffcmh.org