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|  Office of Mental Health | | Official Policy Manual DIRECTIVE | | SECTION Patient Care | SECTION # PC-527 |
| PREPARED BY Julie A. Rodak, Associate Counsel | | T.L. 17-07 | TITLE Employee/Patient Relationships | | |
| COMMISSIONER'S APPROVAL Ann Marie T. Sullivan, M.D. | | | DATE ISSUED 7/17/2017 | SUPERSEDES 5/9/2017 | PAGE 1 of 6 |

A. Policy Statement

Employees of the Office of Mental Health are responsible for working within professional boundaries in their interactions with patients. Although it is important for staff to establish a rapport with patients and provide friendly and accessible services, employees must establish and maintain appropriate professional and personal boundaries between themselves and patients in order to maintain a safe and therapeutic environment.

There is an implicit imbalance of power between those who work in the mental health treatment environment and those who seek care within this environment. Patients may be in a vulnerable position when they require mental health care, assistance, guidance, and support. In contrast, staff are in a position of power because they have access to and control of resources that the patient needs. This asymmetry in power, if not understood and respected, can lead to exploitation of some patients in a variety of ways, regardless of whether or not this is the intended result. When appropriate clinical boundaries are disregarded and employees place their own needs and goals above those of patients, exploitation can result.

B. Purpose

The purpose of this policy directive is to facilitate the provision of care in a safe and therapeutic environment by establishing and maintaining standards for professional behavior for employees of State operated facilities.

C. Applicability

This directive applies to all employees of programs under the auspices of State operated psychiatric facilities as well as other employees of the Office of Mental Health who interact or come into contact with persons receiving services from the Office.

D. Relevant Statutes and Standards

Mental Hygiene Law, Article 7
Mental Hygiene Law, Section 33.13
Mental Hygiene Law, Section 33.16
Public Officers Law, Sections 73 and 74 Social Services Law Section 488
Penal Law Section 130.05
14 NYCRR Part 524
OMH Official Policy Directive OM-350
OMH Official Policy Directive QA-510
OMH Official Policy Directive PC-525

E. Definitions

1. *Boundary* means the 'line' between a professional and personal relationship. If this is crossed the relationship moves from being objective to subjective.
2. *Boundary violation* means a situation when the 'line' between a professional and personal relationship is crossed, and the relationship moves from being focused on the discharge of a professional duty to being something more akin to a personal relationship that has the potential to compromise care.
3. *Commercial advantage* means the purchase or provision of goods or services at other than fair market value.
4. *Employee or Staff* means an administrator, employee, consultant, volunteer, or student affiliated with a facility or program operated by the Office of Mental Health, or a person employed by an entity which has a contract with such a facility or program.
5. *Patient* means any person who receives services from a facility of the Office of Mental Health. Services include, but are not limited to: mental health treatment, as well as vocational, educational, or other counseling/support, and residential care.
6. *New York Certified Peer Specialist (NYCPS)* means a person who has demonstrated competence in performing a range of peer support activities as defined in the New York Certified Peer Specialist - Scope of Activities, which outlines the range of peer recovery services that a New York Certified Peer Specialist can provide to assist others in living their lives based on the principles of recovery and resiliency.
7. *Professional behavior* means consistent conduct and behavior that conveys respect for the dignity of patients and others.
8. *Therapeutic relationship* means the relationship between employees and patients for the purpose of, or in support of, the provision of mental health services.

F. Body of the Directive:

1. Establishing Boundaries between Staff and Patients.
 - a) The only appropriate relationship between a patient and staff is a professional one that focuses upon the assessed, legitimate needs of the patient. Staff are responsible for establishing and maintaining boundaries to protect themselves and patients. This involves being respectful and empathetic while neither giving personal information inappropriately nor behaving in a way which encourages belief in a special, exclusive or pseudo-personal relationship.
 - b) All professional relationships contain the potential for conflicts of interest. On occasion, staff may develop strong feelings for a particular patient, family member(s), or person involved in his or her care. These feelings may compromise the professional relationship if they are acted upon improperly. If staff feel that they are developing feelings for a patient they must disclose such feelings at the earliest stage possible to their supervisor.
 - c) Staff should seek advice from their supervisor or other appropriate staff on how to manage approaches by patients who are trying to initiate relationships which would breach professional boundaries.
 - d) All staff are responsible for ensuring a safe and therapeutic environment. If one has evidence that a colleague's practice is questionable, these concerns should be shared with the colleague's supervisor, who should review the

- matter with the staffperson. This will place the staffperson on notice that others are aware of what is going on. Moreover, if the rumors being circulated are false, the staffperson has the opportunity to offer a defense.
2. Prohibited Actions – To maintain professional boundaries, except as otherwise provided in F)4) of this directive (Pre-Existing Relationships), employees shall not:
 - a) encourage, facilitate, promote, or engage in any sexual behavior or sexual contact with any patient of the facility or program in which the employee works, with or without the patient's consent. Pursuant to Section 130.05 of the Penal Law, persons receiving services in inpatient or residential facilities are incapable, as a matter of law, of consenting to a sexual act;
 - b) encourage or establish a personal relationship with any patient of the facility or program in which the employee works;
 - c) condone, encourage, or facilitate unacceptable or illegal patient behaviors, including but not limited to inappropriate sexual activity, uncompensated work, improper use or sale of alcohol or prescription drugs, or use or sale of illegal drugs;
 - d) borrow or otherwise acquire or use patient's money or property for the benefit or purposes of the employee or others who are not the patient;
 - e) handle patient money or possessions in a manner inconsistent with standards or guidelines of OMH; or
 - f) solicit or accept any commercial advantage from a patient or former patient.
 3. Social Media: Employees must use caution when using social networking websites and must refrain from sharing sensitive information, or making inappropriate comments. Employees should regularly check their privacy settings.
 - a) Confidential information, including information that identifies patients or includes photos of them, must never be placed on social networking websites, whether professional or private.
 - b) Employees should avoid discussing work or colleagues on Facebook and other social media sites.
 - c) Employees who provide clinical services should decline friend requests from current patients.
 4. Pre-Existing Relationships:
 - a) If any pre-existing or prior sexual or close personal relationship exists between an employee and a patient, this relationship must be reported by the employee to his or her supervisor, as soon as possible. The supervisor shall inform the patient's treatment team or functional equivalent or the Facility Ethics Committee in order to determine if any resultant action is clinically necessary. In all cases, the employee must take reasonable steps to remove him/herself from a service or treatment provision relationship with a person with whom he/she has a pre-existing or prior close personal relationship.
 - b) If any pre-existing or prior commercial relationship exists between an employee and a patient, this relationship must be reported by the employee to his or her supervisor at the beginning of the treatment or service provision relationship. The supervisor shall inform the patient's treatment team or functional equivalent and/or the Facility Ethics Committee, to determine if any resultant action is clinically necessary.

5. Post-Discharge Relationships: Employees shall not engage in the following:
 - a) Referring a patient to a discharge setting in which the employee has a proprietary interest or inviting a patient to live with the employee after discharge;
 - b) Accepting former patients of OMH operated psychiatric facilities or programs practice for treatment, care or service, unless at least 6 months has transpired since the patient's discharge from an OMH operated facility or program, except for continuity of care in accordance with OMH policy directive OM-350.
6. NY Certified Peer Specialists:
 - a) Peer Specialists rely on equality, reciprocity, and minimizing social distance between the peer specialist and those who are receiving support services. Peer Specialists must set limits that will work in both their professional and personal lives.
 - b) NY Certified Peer Specialists disclose any existing or pre-existing professional, social, or business relationships with person(s) served to their professional supervisors to determine whether existing or pre-existing relationships interfere with the ability to provide peer support services.
 - c) Some flexibility may be given in applying the provisions of this policy to New York Certified Peer Specialists with the following exceptions:
 - i) NY Certified Peer Specialists must comply with all provisions of F)2) of this directive; and
 - ii) NY Certified Peer Specialists must use and disclose protected health information regarding the persons they serve in compliance with the policies of the facilities for whom they work, and all applicable confidentiality laws and regulations, including but not limited to 45 C.F.R. Parts 160, 164 (HIPAA), and Mental Hygiene Law Section 33.13.
 - d) Any considerations for flexibility in complying with the provisions of this directive must be presented in advance to the NY Certified Peer Specialists' supervisor or facility ethics committee for a determination.