



Memorandum

TO: All DSHS HIV Prevention, Services and STD Program Employees

FROM: HIV/STD Prevention and Care Branch

DATE: June 12, 2009

SUBJECT: Ethics, Confidentiality and the Public Trust

The purpose of this bulletin is to stress the contractual and ethical requirements for confidentiality when providing Public Health Follow-up and HIV/STD Prevention and care services. The every-day situations posed by this field of work bring to light a need for heightened awareness on the part of all employees within the HIV/STD program, including local and regional health department and agency-based staff, in positions as varied as Risk Reduction Specialists (RRS), Disease Intervention Specialists (DIS), CRCS specialists, evidence-based intervention (EBI) staff, outreach workers, and Ryan White Case Managers, as well as management.

The Public Trust

The mission of the HIV/STD program is to prevent, treat, and control the spread of HIV, STDs and other communicable diseases. Throughout the process of this important work for the community, employees often gather intimate details about clients, such as drug use, sexual history and HIV status, when conducting their work. All programs and their employees must take every precaution to protect confidential personal information. Public trust is a cornerstone of our work and maintaining this promise is the responsibility of every staff person.

Ethics and Boundaries

Ethics are defined as “the science or study of morality, or of what is right and wrong.” While this is a simple description of a complex topic, the idea of “right and wrong” is extremely pertinent to the work of HIV/STD prevention and care. It is important for employees to be accountable for their behaviors in a professional realm, and to realize their ethical decision-making has an impact on the lives of their clients. Ethics are important for protecting both the employee and the client, and to avoid entanglements that would have a negative effect on the employee’s work and/or the client’s trust.

A code of ethics is a basic set of guidelines for people who work with clients. While many employees in the field of HIV are not licensed counselors or social workers, much of the following code is adaptable and applicable¹

¹ From the *Texas Administrative Code, Social Worker Code of Conduct and Professional Standards of Practice*

“A worker shall be responsible for setting and maintaining professional boundaries”

- There can be great benefit when an employee is also a member of the community. At the same time, this can become a boundary issue for the employee. For example, an RRS might frequent the same social venue where s/he provides services. The RRS must set and maintain professional boundaries about work issues when in both work and personal situations.

“A worker shall not exploit his or her position of trust with a client or former client”

- Clients seeking HIV services expect their information to be kept private, whether it is related to their HIV status or simply personal details of their private life. If an employee leaks information to individuals or the community, they risk losing credibility and trustworthiness.

“A worker shall not provide services to previous or current family members, personal friends, educational associates, business associates, or individuals whose welfare might be jeopardized by a dual relationship”

- At first glance, it may seem you’re the right person to provide testing or other services to your roommate, girlfriend or neighbor. These acts are *strongly discouraged*. When these instances arise, the client should be referred to other staff. If other staff is not available, employees must seek supervision before proceeding. Dual relationships, (having a personal relationship with someone and providing services, thereby entering into a professional relationship also), are ethical tightropes. Even the best of us can find ourselves unable to maintain good boundaries in these situations. Consequences could range from dissolution of personal friendships to legal and employment violations.

“A worker shall only offer those services that are within his or her professional competency”

- While employees that work in the field of HIV often wear many “different hats” within their job, it is imperative that employees work within their given role. For example, an RRS should *never* do partner notification, which is the role of the DIS. In another example, if the client in CRCS requires professional counseling and/or psychotherapy, the CRCS must understand his/her role (even if she has a professional degree in Counseling or Social Work), and refer the client to a professional counselor or therapist, unless it falls within the scope of risk reduction.

Confidentiality

There are some improper ethical decisions made that are also illegal. Employees must maintain a high level of confidentiality regarding client information, in addition to strictly following the policies and procedures of their agencies, regardless of their position at the agency. A breach of confidentiality occurs when an employee willfully or inadvertently releases client information to a third party. Any breach of confidentiality in the workplace could lead to corrective action, up to and including job dismissal. All client and partner information is confidential; in the testing situation, this applies whether the client tests confidentially, anonymously, or declines to test. Also, the release of test results or any information gathered that could identify a client is a breach of confidentiality and can be punishable by applicable statutes and administrative regulations.

Per the Texas Health and Safety Code §81.103, a violation of confidentiality is a Class A misdemeanor punishable by up to one year in jail and fines of up to \$5,000. These violations are also civil offenses, which may result in personal liability for damages plus fines.

Although a breach of confidentiality occurs when an employee releases client information to a third party, maintaining confidentiality means more than not revealing the names of clients to others. While co-workers may have the same agency confidentiality agreement, this does **not** mean client information can be shared indiscriminately with co-workers. Sharing confidential information between co-workers is done only on a “need to know” basis.

Examples of **acceptable** sharing of client information among co-workers and approved agencies and entities include:

- A DIS interviews a client; the client names a partner but provides only limited contact information for this individual. After the interview, the DIS realizes that her co-worker is working a case with the named partner. The DIS goes to her co-worker to get more details and additional contact information.
- A CRCS specialist has a risk reduction session with an HIV-positive client who states he had unprotected sex with new partner. The client doesn't feel comfortable referring the partner for testing. The CRCS specialist gathers the information and shares the partner information with the DIS so the DIS can perform the public health follow-up. The CRCS Specialist also should tell the client that s/he has provided this information to the DIS for follow-up.
- An RRS completes a challenging session with a high-risk client. At the weekly staff meeting, the RRS discusses some of the client's circumstances (no names or specifics) with her co-workers and supervisors to gather ideas on how to handle a similar counseling session in the future.
- A Ryan White Case Manager discusses a mutual client with his agency's CRCS specialist to gather more information on the client's medical situation.

Examples of **unacceptable** sharing of client information amongst co-workers and approved agencies and entities include:

- A CRCS specialist recognizes the client his co-worker is testing as someone his friend is dating. When his co-worker is finished with the session, he asks her why the client had chosen to test. (There is no "need to know" basis)
- An RRS calls a DIS with the names of some partners elicited in a PBC session in which she gave the client HIV positive results. The RRS defers to the DIS and health department for partner services; the RRS later calls the DIS to make sure that the individuals named have been contacted. The DIS tells her "Yes, those two people have been contacted and they both tested positive." (The revelation of the HIV status is not allowable on a "need to know" basis in this situation.)
- A Ryan White Case Manager sends client information to a health care provider without a release of information signed by the client.
- An RRS is about to give an HIV positive result; as he is preparing for the session, the agency CRCS specialist reminds him to refer this client to CRCS. The RRS obliges. To make sure this happens, the CRCS listens to the entire session from outside the door. (There is no "need to know" basis.)

It is imperative that agencies have policies and procedures in place to ensure client confidentiality, as well as a system for both clients and employees to report potential breaches and/or inappropriate intra-agency sharing of information.

Professional Code of Conduct

It is essential for employees to maintain the confidentiality of personal client information. Personal client information should not be part of general office conversation, jokes or gossip. Employees must observe the codes of conduct established by their specific agency, and conduct all activities with honesty and integrity.

At the start of all interactions with a client, we ensure that the information that they tell us will be held in the strictest confidence possible. This is a responsibility and a promise we need to uphold. For without it, the RRS would not be able to tailor a risk reduction step to the individual client, the

EBI facilitator would not be able to conduct his/her groups, the Ryan White Case Manager would not be able to provide essential client services, and the DIS would not be able to elicit and/or notify partners. In short, we would not be able to do our jobs, to help and serve the people of Texas.