



Queries and Questions from Behavior Analysts

By Authors Jon Bailey and Mary Burch

Note to Readers: This is the second in a series of articles on ethics where we attempt to answer questions from behavior analysts. This question came from a participant at a recent workshop we conducted in Tallahassee. Numbers in parentheses denote specific citations of the Guidelines.

QUESTION: “Third party payers for services (medicaid, insurance, etc.) are starting to employ behavior analysts to review the behavioral programming provided by other behavior analysts. While this is better than having psychologists or bean counters reviewing behavior program the question is: Is the BA employed to review the programming unethical in that they are making decisions about services without observing the client, reviewing data, etc.?”



Jon Bailey, PhD



Mary Burch, PhD

ANSWER: This is an interesting and timely question. It is a great ethics question because it makes one think. First of all, when looking at the Guidelines, the answer to this question is not immediately obvious. This means you'll have to derive your answer from information that is covered in the Guidelines for Responsible Conduct. While the Guidelines that have been adopted by the Behavior Analyst Certification Board do not specifically cover the practice of third-party review of behavioral programming, they do give us some

indications of ethical considerations that should be an important part of this version of managed care.

For example, it is fairly clear that the person doing the review should be a Board Certified Behavior Analyst who is “proficient in the professional practice of behavior analysis” (1.02), “competent” (1.03), and who has been “adequately prepared” (6.03) for such complex decision making. We assume this to mean the behavior analyst has several years of hands-on experience with a wide variety of clients in a range of settings as well as considerable experience on local peer review committees.

Furthermore, a close reading of the Guidelines will help you come to the conclusion that there are issues of potential “conflict of interest” (1.07 b, c) that would need to be resolved. These issues related to the “demands of the organization” (6.06), concern the relationship between the reviewer and the managed-care agency (his/her employer), the welfare of the client, and the field of behavior analysis. In these times of tight funding, we assume the managed care agency presumably has an interest in keeping costs down,

whereas the BCBA reviewer has a primary commitment to the “right to effective treatment” (2.09) that is a bedrock principle in our code of ethics. In answering the ethics question above, we would most especially be concerned that a behavior analyst so employed would always take heed of one of our core principles “Do No Harm.” If the reviewer were to lose track of his/her primary commitment to the client and the field of behavior analysis and make decisions that did cause harm, then clearly this would be an ethical violation. In contrast, we most often presume a behavior analyst who takes a case and recommends behavioral treatment is in fact operating in good faith and not responding to another potential conflict of interest (i.e. proposing treatment just to maintain a revenue stream).

One comment we hear frequently is, “the managed care people make these decisions about services and they don't even see the client!” The fact that the external reviewer does not actually observe the client is less of a problem than one might think. This aspect of the process is in actuality simply an extension of our current practice of local peer review. If everyone in the process is competent, trained in behavior analysis and is operating in good faith, the system should work well to produce effective treatment for all our clients.

As we understand it, the companies that have taken on the responsibility of reviewing behavioral programming have established a rule of “Medical necessity” as part of the determination for funding. We do not find any specific reference to such a standard in the Guidelines but rather, behavior analysts are charged with operating in the “best interest of clients” (2.0). In the case of an external reviewer such as managed care reviewers, this means that when considering whether to approve or deny funding he/she must think not only of agency priorities but also the client who might be denied behavioral treatment with who knows what possible outcome. Serving as an external reviewer of behavioral programming is a

huge responsibility. We hope that those who are taking on these tasks keep their ethics guidelines in clear view as they make decisions that will greatly impact the lives of others.

Note to readers: Please send your questions or scenarios to: Jon S. Bailey, PhD at: bailey@psy.fsu.edu In the subject line, please write “ETHICS ANYONE?”

