

Workers Comp  
It Matters

# Case Management Ethics

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# Important Disclaimers:

- Not legal advice.
- Application of ethical standards will vary depending on the facts and standards at issue.
- When in doubt:
  - Consult the standards.
  - Speak with experienced colleagues superiors (if appropriate).
  - Reach out to the accrediting/licensing agency.
  - Consult with your legal counsel.

# Goals

- Ethical standards for:
  - CCMC
  - CDMS
  - CRCC
- Compare to ethics of other professions
- Decision-making process; example scenarios
- Provide useful resources

# PART 1: Ethical Standards

# CCMC: Principles vs. Rules of Conduct vs. Standards of Professional Conduct

- Principles
  - Eight (8) principles.
  - “Normative guidelines...” “...advisory in nature....”
    - Source: Preamble, CCMC Code of Professional Conduct
- Rules
  - Six (6) rules
  - “Mandatory”; disciplinary process to enforce them.
- Standards
  - Twenty-five (25) standards.
  - “Mandatory”; disciplinary process to enforce them.

# CCMC Principles

Board- Certified Case Managers will....

- 1.) ... place the public interest above their own at all times.
- 2.) ... respect the rights and inherent dignity of all of their clients.
- 3.)... always maintain objectivity in their relationship with clients.
- 4.)... act with integrity and fidelity with clients and others.
- 5.)... maintain their competency at a level that ensures their clients will receive the highest quality of service.

# CCMC Principles

## Board- Certified Case Managers Will...

- 6.)... honor the integrity of the CCM designation and adhere to the requirements for its use.
- 7.)... obey all laws and regulations.
- 8.)... maintain the integrity of the Code, by responding to requests for public comments to review and revise the Code, thus helping ensure its consistency with current practice.



# CCMC Rules of Conduct

A CCM will not....

- 1.) ... intentionally falsify an application or other documents
- 2.)... be convicted of a felony\*
- 3.)... violate the Code of Ethics governing the profession upon which the individual's eligibility for the CCM designation is based.
- 4.)... lose the primary professional credential upon which eligibility for the CCM designation is based.
- 5.)... violate or breach the Standards of Professional Conduct.
- 6.)... violate the rules and regulations governing the taking of the certification examination and maintenance of CCM certification.



# CCMC Standards of Professional Conduct

- Twenty-five (total) standards governing:
  - Client advocacy;
  - Professional responsibility;
  - Case manager/client relationships;
  - Confidentiality, security, and recordkeeping;
  - Professional relationships.

# Some standards of note:

- S7 – “Anyone possessing knowledge not protected as confidential that a... CCM may have committed a violation as to the provisions of this Code is required to promptly report such knowledge to CCMC.”
- S20 – “It is unprofessional behavior if the [CCM]:
  - commits a criminal act;
  - engages in conduct involving discrimination...;
  - fails to maintain professional boundaries with the client;
  - engages in sexually intimate behavior with a client; or accepts as a client an individual with whom the [CCM] has been sexually intimate; or
  - inappropriately discloses information about a client via social media or other means.”
    - Note: “criminal act” – not just felonies.
    - Note: doesn’t just prohibit disclosure of PHI/individually-identifiable info.



CERTIFIED DISABILITY MANAGEMENT  
SPECIALIST  
(CDMS)

# CDMS Principles

Board Certified Disability Management Specialists shall...

- 1.)... place the public interests above their own at all times.
- 2.)... respect the integrity, dignity, and protect the welfare of those persons or groups with whom they are working.
- 3.)... always maintain objectivity in their relationships with clients.
- 4.)... act with integrity and dignity in dealing with other professionals.
- 5.)... keep their technical competency at a level that ensures their clients will receive the benefits of the highest quality of service the profession can offer.

# CDMS Principles

Board Certified Disability Management Specialists shall...

- 6 .)... honor the integrity of the CDMS credential and respect the limitations placed on its use.
- 7 .)... obey all laws and regulations, avoiding any conduct or activity that could harm others.
- 8 .)... help maintain the integrity of the CDMS Code of Professional Conduct.

# CDMS Rules

- Twenty eight (28) rules governing:
  - Relationship with All Parties
  - Provision of Services to Individual Clients
  - Provision of Services to Organizational Clients

COMMISSION ON REHABILITATION  
COUNSELOR CERTIFICATION  
(CRCC)



# CRCC Values

- Respecting human rights and dignity
- Ensuring the integrity of all professional relationships
- Acting to alleviate personal distress and suffering
- Enhancing the quality of professional knowledge and its application to increase professional and personal effectiveness
- Promoting empowerment through self-advocacy and self-determination
- Appreciating the diversity of human experience and appreciating culture
- Emphasizing client strengths versus deficits
- Serving individuals holistically
- Advocating for the fair and adequate provision of services

# CRCC Standards

Sixty-five (65) standards governing:

- Counseling Relationship
- Confidentiality, Privileged Communication, and Privacy
- Advocacy and Accessibility
- Professional Responsibility
- Relationships with Other Professionals and Employers
- Forensic Services
- Assessment and Evaluation
- Supervision, Training, and Teaching
- Research and Publication
- Technology, Social Media, and Distance Counseling
- Business Practices
- Resolution of Ethical Issues

# PART 2: Comparing Ethics

# Comparing ethical standards: duty to report violations.

- **Attorneys:** must report only if lawyer “knows that another lawyer has committed a violation... that raises a substantial question as to that lawyer’s honesty, trustworthiness, or fitness as a lawyer... (Source: TN RPC 8.3(a))
  - Requires actual knowledge.
  - Does not include all violations.
- **Doctors:** “Physicians who become aware of or strongly suspect that conduct threatens patient welfare or otherwise appears to violate ethical or legal standards should... report directly to the state licensing board *when the conduct in question poses an immediate threat to the health and safety of patients or violates state licensing provisions.*” (Source: AMA Code of Medical Ethics Opinion 9.4.2; adopted by TN Board of Medical Examiners at Tenn. Comp. R. & Regs. 0880-02-.14(8))
  - “Should” vs. “must”
  - Requires immediate threat to patient or violation of state licensing laws.

## ...vs. CCM standard

- **CCMs**: “Anyone possessing knowledge not protected as confidential that a... CCM may have committed a violation as to the provisions of this Code is required to promptly report such knowledge to CCMC.”  
(S 7, CCMC Standards of Professional Conduct)
  - “Required,” not “should.”
  - Not limited to violations of law, conduct threatening patient safety, etc.

# ... vs CRCs

- **CRCs:** “

- “When rehabilitation counselors have **reason to believe** that another rehabilitation counselor is violating or has violated an ethical standard, **they attempt to resolve the issue informally by direct communication with the other rehabilitation counselor** if feasible and provided such action does not violate confidentiality rights...”
- “**When an informal resolution is not appropriate or feasible, is not resolved, or if an apparent violation has substantially harmed or is likely to substantially harm persons or organizations**, rehabilitation counselors take further action appropriate to the situation. **Such action might include referral of the matter to applicable committees on professional ethics...** Referral may not be appropriate when the reporting would violate confidentiality rights...”

Code of Professional Ethics for Certified Rehabilitation Counsellors (CRC), Sections L.2(c) and (d).

(CRCC, effective 1/1/2017.)

# PART 3: Decision-making Process



# What is an ethical dilemma?

An ethical dilemma involves the need to choose from among two or more morally acceptable options or between equally unacceptable courses of action, when one choice prevents selection of the other. (Ong WY, Yee CM, Lee A. Ethical dilemmas in the care of cancer patients near the end of life. Singapore Med J. 2012 Jan;53(1):11-6. PMID: 22252176.)

# The Decision-Making Process

- **CCMC:** *“Because case management exists in an environment that may look to it to solve or resolve various problems in the health care delivery and payor systems, case managers may often confront ethical dilemmas. Case managers must abide by the Code as well as by the professional code of ethics for their specific professional discipline for guidance and support in the resolution of these conflicts.”*  
-- Code of Professional Conduct for Case Managers, Scope of Practice for Case Managers (CCMC)
- **CRCC:** *“Rehabilitation counselors recognize underlying ethical principles and conflicts among competing interests. They apply appropriate decision-making models and skills to resolve dilemmas and act ethically.”*  
*“When uncertain... rehabilitation counselors consult with other professionals who are knowledgeable about ethics, with supervisors, colleagues, and/or with appropriate authorities, such as CRCC, licensure boards, or legal counsel.”*  
-- Code of Professional Ethics for Certified Rehabilitation Counselors (CRC), Section L.2(a) and (b). (CRCC)

# The Decision-Making Process

- Identify background information
- Identify the ethical dilemma
- Relate to the organization's ethical principles
- Review alternative options
- Recommend an option
- Reflect on the ethical decision

Nelson, W.A. (2015). Making Ethical Decisions. A six-step process should guide ethical decision making in healthcare. *Healthcare executive*, 30 4, 46-8 .

# 5 Principles of Ethics

- Autonomy - Agreement to respect another's right to self-determine a course of action; support of independent decision making. (Beauchamp, T.L. & Childress, J.F. *Principles of Biomedical Ethics*, 6th Ed. 2009, NY, NY; Oxford University Press, p 38–39)
- Beneficence - Compassion; taking positive action to help others; desire to do good; core principle of client advocacy. (Beauchamp, T.L. & Childress, J.F. *Principles of Biomedical Ethics*, 6th Ed. 2009, NY, NY; Oxford University Press, p 38–39)
- Nonmaleficence - This principle requires that every medical action be weighed against all benefits, risks, and consequences. (Girdler SJ, Girdler JE, Tarpada SP, Morris MT. *Nonmaleficence in medical training: Balancing patient care and efficient education.* *Indian J Med Ethics.* 2019 Apr-Jun;4(2):129-133. doi: 10.20529/IJME.2018.100. Epub 2018 Dec 12. PMID: 30916041.)
- Justice - The ethical principle that involves the idea of fairness and equality in terms of access to resources and treatment by others. (Cottone, R.R. & Tarvydas, V.M., *Counseling Ethics and Decision Making*, 3rd Ed 2007, Pearson Merrill Prentice Hall, New Jersey, p 501)
- Fidelity - The ethical principle that directs people to keep commitments or promises. (Cottone, R.R. & Tarvydas, V.M., *Counseling Ethics and Decision Making*, 3rd Ed 2007, Pearson Merrill Prentice Hall, New Jersey, p 500)

# “Advocacy” dilemmas

- CCMC definition: *“The act of recommending, pleading the cause of another; to speak or write in favor of.”*
- *“If a client, then, complains to the CCMC Ethics Committee that you have not helped, **will you at least be able to show the [Ethics] committee that you performed a reasonably comprehensive assessment of the client’s needs and that you took steps according to case management standards of care to provide service options and access to resources?** Your failing to do this would only corroborate your client’s allegations and might result in informal sanctions.”*  
-- CCMC Commentary to Standards for Professional Conduct

# Scenario 1: The Treatment Gap

## Facts:

- Patient has been using gabapentin ER (anti-epilepsy drug; ODG “N” drug).
- Original prescriber no longer practices. Care is transitioned to a new doctor who is less familiar with TN work comp.
- Authorization for the medication is set to expire soon. Prescriber has not submitted a prior authorization request.
- Adjuster says that, if no request is submitted, the PBM will block the medication.

# Scenario 1: The Treatment Gap

Dilemma: How to advocate for client without overstepping role.

Principles (CCMC):

- Section 1: "Board-Certified Case Managers (CCMs) will serve as advocates for their clients and perform a comprehensive assessment to identify the client's needs; they will identify options and provide choices, when available and appropriate."
- S 1: "[CCMs] will practice only within the boundaries of their role or competence...."

Options:

- Tell adjuster to extend prior auth?
- Tell prescriber to submit preauth request?
- Others?



# Scenario 2: Suspicious Patient Behavior

## Facts:

- Patient claims to be unable to stand for extended periods of time due to severe pain in lower back and legs.
- Following interviews with patient, CCM/CRC begins to suspect that patient is malingering/exaggerating disability.
- CCM/CRC becomes “friends” with patient on Facebook and discovers recent photos of patient hiking, and a recent video of patient playing “Dance, Dance, Revolution” with patient’s son.

# Important note: lines have already been crossed here.

- CCMC:
  - S 10: “[CCMs] will maintain objectivity in their professional relationships... and **will not enter into a relationship with a client... that interferes with that objectivity.**”
  - S 20: “It is unprofessional behavior if the [CCM]...**fails to maintain appropriate professional boundaries** with the client...”
- CRCC:
  - J.4(d) “Rehabilitation counselors respect the privacy of their client’s presence on social media and avoid searching a client’s virtual presence unless relevant to the rehabilitation counseling process. **If a rehabilitation counselor may search a client’s virtual presence, this is disclosed in advance. Rehabilitation counselors caution clients of the potential impact that social media use may have on the counseling relationship and discuss the benefits and risks of using social media within the rehabilitation counseling process.**”

... but now that the can of worms has been  
opened...

# Scenario 2: Suspicious Patient Behavior

Dilemma: How to serve a client who may be misrepresenting their condition.

Principles (CCMC):

- Section 1: “[CCMs] will serve as advocates for their clients....”
  - “Advocacy: The act of recommending, pleading the cause of another; to speak or write in favor of.”

BUT ALSO:

- S16: “[CCMs] will be accurate, honest, and unbiased in reporting the results of their professional activities to appropriate third parties.”

# Scenario 2: Suspicious Patient Behavior

## Principles (CRCC):

- B.3(f): *“Rehabilitation counselors disclose information to third-party payers only when clients have authorized such disclosure, unless otherwise required by law.”*
- D.5(b): *“Rehabilitation counselors are accurate, honest, and objective in reporting their professional activities and judgments to authorized third parties (e.g., courts, health insurance companies, recipients of evaluation reports.)”*
- D.5(g): *“Rehabilitation counselors do not engage in any act or omission of a dishonest, deceitful, or fraudulent nature....”*

# Scenario 2: Suspicious Patient Behavior

## Options:

- Notify adjuster of concerns/evidence.
- Withhold concerns/evidence.
- Others?

# Common issues in TN with WC claims that may become ethical dilemmas.

- Communication with the physician and/or the physician staff.
  - Advocacy vs. scope of role.
- The IW is just not happy.
  - Advocacy vs. objectivity.
  - Advocacy vs. scope of role.
- Patients' Attorneys don't allow contact with the IW
  - Advocacy vs. respecting autonomy/rights of IW (as expressed by attny).
  - Advocacy vs. scope of role.



# Other Common Scenarios.

- What common dilemmas do you often come across?
- How do you resolve those dilemmas?

# PART 4: Resources

# Primary Resources – Ethical Standards

- CCMC Code of Conduct:  
[https://ccmcertification.org/sites/ccmc/files/docs/2018/ccmc-18-code-of-conduct\\_1.pdf](https://ccmcertification.org/sites/ccmc/files/docs/2018/ccmc-18-code-of-conduct_1.pdf)
- CCMC Code of Conduct FAQ:  
[https://ccmcertification.org/sites/ccmc/files/docs/2017/frequently\\_asked\\_questions\\_ccmc\\_code\\_of\\_conduct.pdf](https://ccmcertification.org/sites/ccmc/files/docs/2017/frequently_asked_questions_ccmc_code_of_conduct.pdf)
- CDMS Code of Conduct:  
[https://www.cdms.org/sites/default/files/docs/CCMC-19-CDMS-Code-Of-Conduct-Web%20\(1\).pdf](https://www.cdms.org/sites/default/files/docs/CCMC-19-CDMS-Code-Of-Conduct-Web%20(1).pdf)
- CRC Code of Professional Ethics:  
[https://crccertification.com/wp-content/uploads/2021/03/CRC\\_CodeEthics\\_Eff2017-Finalnewdesign.pdf](https://crccertification.com/wp-content/uploads/2021/03/CRC_CodeEthics_Eff2017-Finalnewdesign.pdf)

# Advisory Opinions – When in Doubt, Ask!

- CCMC Advisory Opinions (non-binding):
  - *“Questions may be submitted to Ethics & Professional Conduct Committee, CCMC, 1120 Route 73, Suite 200, Mt. Laurel, New Jersey 08054.”*
  - Source:  
[https://ccmcertification.org/sites/ccmc/files/docs/2017/frequently\\_asked\\_questions\\_ccmc\\_code\\_of\\_conduct.pdf](https://ccmcertification.org/sites/ccmc/files/docs/2017/frequently_asked_questions_ccmc_code_of_conduct.pdf)
- CDMS Advisory Opinions (non-binding):
  - Follows CCMC process.
  - *“An opinion can be requested from CCMC’s Ethics & Professional Conduct Committee.”* (Preamble, CDMS Code of Conduct.)
- CRCC Advisory Opinions (non-binding):
  - <https://crccertification.com/code-of-ethics-4/advisory-opinions/>
  - CRCC recommends first consulting with *“other rehabilitation counselors... who are knowledgeable about ethics...”*  
<http://crccertification.com/wp-content/uploads/2020/10/Guidelines-for-Requesting-Advisory-Opinions.pdf>

# Professional Development

- CMLearning Network (webinars on-demand)
  - <https://www.pathlms.com/ccmc>
  - Includes CCMC and CDMS content
- CDMS webinars
  - <https://www.cdms.org/develop-others/webinar-recordings#>
- CRCC eUniversity
  - <https://crccertification.com/crcc-euniversity-1/>
- Workcompcollege.com (in development)
  - <https://workcompcollege.com/>
  - 3-month Workers' Recovery Professional Certification Course to become available in October of 2022

# Templates

- CRCC – Professional Disclosure Form (Private Sector; Workers' Compensation)
  - [http://crccertification.com/wp-content/uploads/2020/10/CRCC\\_Private\\_WC-LTDDisclosure-REV-201711-2.pdf](http://crccertification.com/wp-content/uploads/2020/10/CRCC_Private_WC-LTDDisclosure-REV-201711-2.pdf)

**Questions?**