ETHICS FRAMEWORK / IMPLEMENTATION PLAN

FOR

VISTA CENTRE BRAIN INJURY SERVICES (VCBIS)

INTRODUCTION

The purpose of this document is to assist the board and staff of Vista Centre Brain Injury Services (VCBIS) in the development of a process to address ethics-related issues throughout the organization according to the requirements of the Accreditation Canada (AC) Program as it applies to the delivery of community brain injury services.

The following are the specifics being addressed by the Ethical Framework:

- The governing body develops and regularly reviews and updates the organization's policies on ethics-related issues (see Governance Policies: Code of Ethics 1.10, Dual Relationships or Conflict of Interest with Clients 1.14 and Ethics Committee 2.5).

- The organization has a written framework to guide ethical behavior throughout the organization.

- The ethics framework is publicly accessible.

- The ethics framework meets legal requirements as applicable.

- The organization has a process to address ethics-related issues.

- The process includes ways for anyone in the organization to confidentially report suspected or potential breaches of this framework.

WHAT IS AN ETHICS FRAMEWORK?

"A framework is intended to help us see issues from varying perspectives and to unify the consequences of different options from the point of view of "affected others". As such it is a kind of lens that should stimulate our moral imaginations and help make transparent the value at stake."

Sherwin/1999

The minimum requirements for any meaningful ethical framework:

- Identify the full range of moral claims
- Ensure the recognition and analysis of the relevant moral considerations
- Develop deliberative strategies to promote sensitivity to both process and substance of decisions.   Sherwin/1999

Overall, an "ethical framework should help by assisting us in identifying and examining assumptions, broadening perspectives, enlarging knowledge, developing critical thinking skills, fostering tolerance, openness and skepticism about dogma, and cultivating empathy."

Kopleman/1999

WHY IS AN ETHICS FRAMEWORK IMPORTANT/NECESSARY?

In his paper, *A Framework for Integrating Ethical Decision-Making in Community Based Health Care,* Frank Wagner notes the key trends that are impacting health care ethics. Those that affect providers of community care are as follows:

- Increased pressures from governments and payers to force change in practice.
- Increase in caseload and complexity of issues dealt with by community health care staff.
- Trend toward earlier discharge of non-compliant and/or complex cases from hospital.

Mr. Wagner describes the challenges and pressures faced by staff in the community health care sector as follows:

- High levels of moral distress due to the increase in the number and complexity of cases/clients they are dealing with.
- Seeing their patients/clients living with increased risk in the community.
- Feeling uneasy about or disagreeing with choices that patients/clients make which may affect them adversely.

Front Line Community Health Care Workers themselves have identified the following issues:

- Making choices
- Priority setting and allocation of financial resources
- Workplace demands
- Client safety
- Worker safety consent

Ethical dilemmas arise when there are no clear or obvious answers or where choice may be between two evils or two goods. Given the current situation as described by Mr. Wagner, it is apparent the current climate in community health care is rife with opportunities for ethical dilemmas and agencies need to address the problem in order to ensure both the well-being of their clients and their staff.

IDENTIFICATION OF A MORAL ISSUE – WHAT IS A MORAL ISSUE?

In his paper, *Independent Living Service Providers – A Framework for Integrating Ethical Decision-Making in Community Based Health Care,* (Feb. 7, 2007), Frank Wagner describes the identification of an ethical issue as follows: "When
- we encounter conflicting values, beliefs and goals or difficult alternatives.
- we have conflicting obligations or responsibilities.
- we are concerned that rights are being violated or persons are not being respected.
- we are concerned with fairness and justice.
- we are unsure about what we should do or why we should do it."

ESTABLISHING ETHICAL STANDARDS

Making good ethical decisions requires

- a trained sensitivity to ethical issues
- a practical method for exploring the ethical aspects of a decision

There is an array of traditional ethical theories to guide the establishment of the development of an ethical framework for decision-making. Given the range and complexities of issues encountered by VCBIS, it is recommended that the decision making process should be guided by four sources of ethical standards as follows:

Stage 1: Principle Based Ethics
Stage 2: Ethics of Care
Stage 3: Community Based Ethics
Stage 4: Professional Ethics

Principle Based Ethics

Principle Based Ethics is an overall guide to ethical behavior encompassing the principles of:

- Autonomy – the duty to respect persons regarding their right to independent self-determination regarding the course of their lives and issues concerning the integrity of their bodies and minds.
- Benefience – the obligation to do good.
- Non-malefience – the obligation to avoid harm.
- Justice/Nondiscrimination – the duty to treat individuals fairly, not to discriminate on the basis of irrelevant characteristics.
- Fidelity – the duty to keep promises.
- Accountability – presenting clear and transparent accounting of decisions and ethical justifications as well as assuming their consequences.

Applying principle based ethics at Stage 1 of the ethical decision making process sets the "tone" of the discussion/deliberation and ensures adherence to basic ethical principles.

Ethics of Care

The Ethics of Care holds that moral/ethical decision making is not so much about rights or funding rules to arbitrate conflicting interests as it is about finding solutions that reduce conflict by focusing on human dignity and the good of the entire community/society. The ethic does not see people as autonomous and unconnected but rather as rooted within relationships – for instance, family relationships, social relationships and political relationships. The ethics of care says that every time decisions are made, there needs to be a consideration of what kind of relationship is at stake. At its core, the ethics of care is respectful of interconnection. Nuale Kenny / 2004

Community Based Ethics

Community Based Ethics is the specific application of ethics to community services with particular reference to how decisions get made. Generally speaking, it is a process to sort out the facts, options and principles raised in each case to determine the right solution in a range of solutions. It uses a range of legal principles including benefience and autonomy but also includes the following standards:

Proportionality – if the client may be harmed or helped by the decision/plan then the plan should be offered if the benefit outweighs the burden.
Justice – that all persons are equal and should be treated equally.
Self Determination – that clients capable of making decisions have the right to consent to or refuse care even if the result of that refusal will have a negative impact on them.
Best Interest – that those who cannot decide have the right to have decisions made for them to maximize their welfare.

Professional Ethics

Professional Ethics require that the following principles/standards be applied to the ethical decision making process:

- Impartiality; objectivity
- Openness; full discussion
- Confidentiality
- Due diligence / duty of care
- Fidelity to professional responsibilities
- Avoiding potential of apparent conflict of interest

PUTTING THE APPROACHES TOGETHER

Each of the above ethical perspectives or approaches helps to determine what standard of behavior can be considered ethical. Though the different approaches may not all answer "What is ethical?" in the same way, each gives important information with which to determine what is ethical in a particular circumstance. Certainly professional ethics would be applied to all decisions made by an agency, whereas the ethics of care would be applied where appropriate.

THE ESTABLISHMENT OF AN ETHICAL FRAMEWORK

The first step in the process would be to review the current organizational culture of ethics at VCBIS. What exists now? What are the gaps? The following are some examples of what policies should be in place:

- Waitlist management
- Behavior management
- Consent-making, decision-making capacity

- Conflict of interest
- Privacy / confidentiality
- Challenging families
- Dysfunctional teams
- Substance abuse

The next step is to review the role of the Ethics Committee that is in place. The ideal ethics committee would be comprised of people who are thoughtful, trained and knowledgeable in ethical decision-making (social workers, attorneys, ethicists, administrators, nurses, local community representatives.)

The ethics committee provides an interdisciplinary forum to present views about specific cases and to air many perspectives. It creates an open, non-legal deliberative process where people can and must argue their position and be challenged. It forces people to think through the facts of an issue and to articulate their position in front of peers. A strong ethics committee functions freely and its deliberations are uncontaminated by the agency's interest. The agency may choose not to accept the views of the committee for its own reasons but those views should be allowed to develop independently. Good ethics committees operate openly and clients, families and professionals are advised of the establishment of the committee, its membership and chair and where and when it meets. Clients should always be advised if their case is going to be discussed and know the role the ethics committee will play in the client's case.

THE ESTABLISHMENT OF AN ETHICS FRAMEWORK – BASIC STEPS

Step 1: Recognize an Ethical Issue
Step 2: Get the Facts
Step 3: Evaluate Alternative Actions from Various Ethical Perspectives

Recognize an Ethical Issue

- There are conflicting values, beliefs, goals, difficult alternatives
- There are conflicting obligations, responsibilities, violation of rights
- Persons are not being respected
- Concerns with fairness and justice
- Unsure about what to do or how to do it

Get the Facts

- What are the relevant facts of the case?
- What facts are unknown?
- What individuals have an important stake in the outcome?
- Do some people have a greater stake because they have a special need or because we have special obligations to them?
- What are the options for acting?
- Have all the relevant groups been consulted?

Evaluate Alternative Actions from Various Ethical Perspectives

"The beginning of doing good ethics is to act in good personal conscience. Doing ethics is a process, not an event. It requires shared decision-making among all the people who ought to be involved. A major challenge in doing ethics is to accommodate "reason" and other ways of knowing. Other ways of knowing other than reason include "examined emotions" such as empathy, compassion and intuition, especially moral intuition (common sense, imagination, creativity).
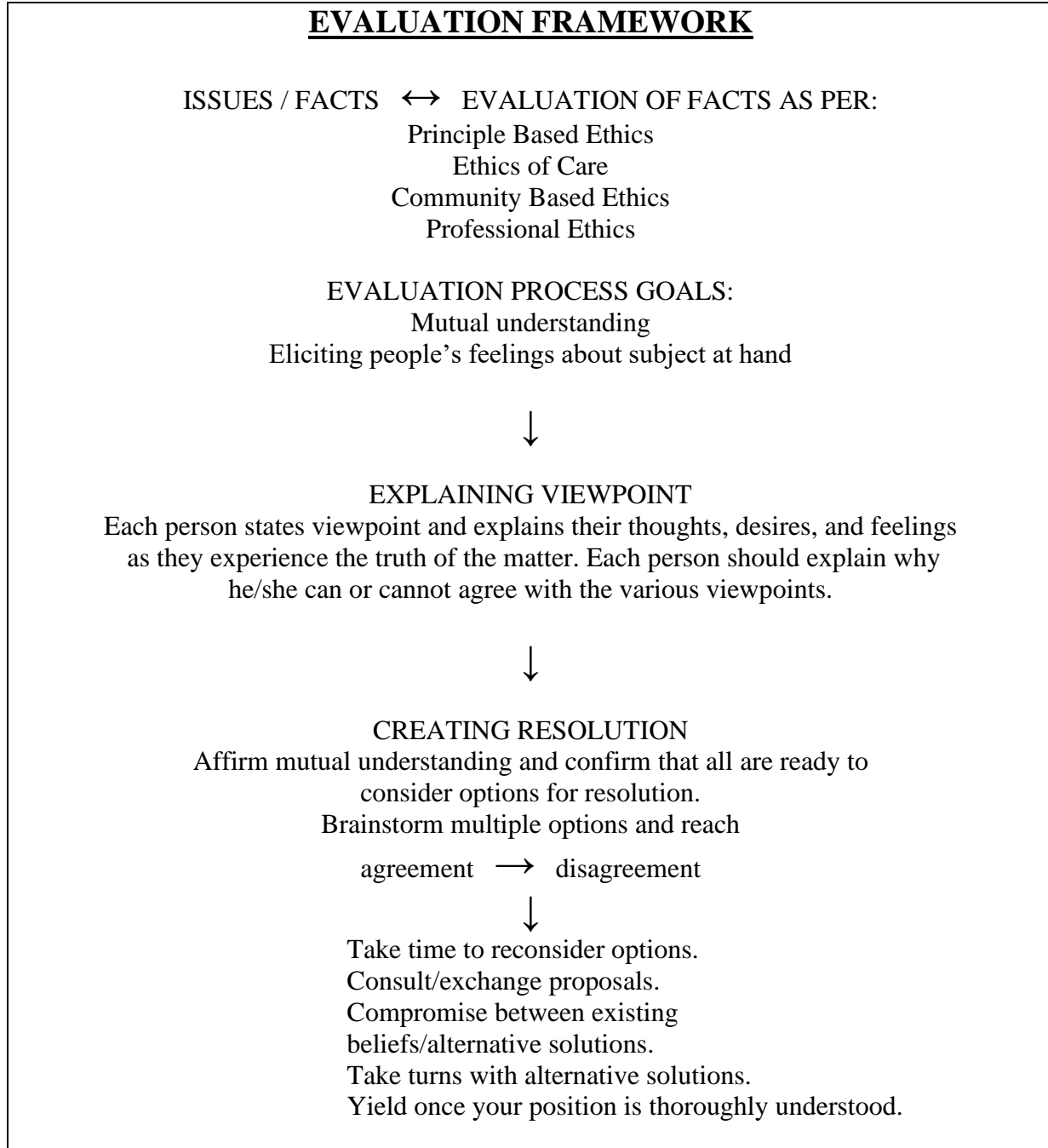
Transdisciplinarity in beliefs is based on a belief that the learning or methodologies of any one ethic is too confining to enable us to deal with the complexity of many of the most important and urgent societal issues to do ethics properly in relation to these issues. This approach has the aim of embedding various streams of knowledge in one another and seeks to create an integrated knowledge through doing this. We must enter this process with honesty, integrity and good faith and see what results.

Ethics deals with values. Doing ethics requires us to identify our values and justify the choice of the values on which we base our ethical decisions. These different justifications correspond to different ways of doing ethics which can by loosely separated into groups that are sometimes called "schools of ethics". When each different school of ethics gives the same response with respect to how we should act regarding a given ethical issue, there is no ethical dilemma. When values conflict, that is, cannot be simultaneously honored, we may not agree on the relative weight and value we should give to the different values."

Margaret Sommerville, The Ethical Canary / 2000

IMPLEMENTATION PLAN – DOING ETHICS

The following chart outlines the ethics framework process from an operational perspective.

EVALUATION FRAMEWORK

ISSUES / FACTS ↔ EVALUATION OF FACTS AS PER:
Principle Based Ethics
Ethics of Care
Community Based Ethics
Professional Ethics

EVALUATION PROCESS GOALS:
Mutual understanding
Eliciting people's feelings about subject at hand

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EXPLAINING VIEWPOINT
Each person states viewpoint and explains their thoughts, desires, and feelings
as they experience the truth of the matter. Each person should explain why
he/she can or cannot agree with the various viewpoints.

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CREATING RESOLUTION
Affirm mutual understanding and confirm that all are ready to
consider options for resolution.
Brainstorm multiple options and reach

agreement → disagreement
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Take time to reconsider options.
Consult/exchange proposals.
Compromise between existing
beliefs/alternative solutions.
Take turns with alternative solutions.
Yield once your position is thoroughly understood.

Note: VCBIS would like to thank Dale Brain Injury Services for their assistance in drafting this document.

Vista Centre Brain Injury Services
Ethical Decision Making

Characteristics of Ethical Dilemmas:

One knows when they have a significant ethical conflict when;

- significant values conflict among differing interests
- there is more then one possible solution, and
- there is a presence of significant consequences on "stakeholders" in the situation

An ethical dilemma;

- exists when there is a conflict between what is perceived as right or wrong
- usually involves weighing personal values, beliefs and sense of right and wrong, rather then weighing clear cut evidence or scientific fact
- often involves making a decision for another that they would not necessarily want you to make or would not make for themselves (going against the wishes of another – putting another in an uncomfortable position)
- usually has no right answer but rather a better answer or the lesser of two evils
- often involves making a choice you would rather not make
- is not experienced as an intellectual puzzle to be sorted out - more something that sits in your stomach like a knot

How Do Ethical Dilemmas Arise?

The ethical problem;

- May simply be unforeseen or unpredictable. This may be due to inexperience or ignorance of ethical principles but it may simply not be predictable.
- May be inadequately anticipated – one may know of potential for issues but not anticipate how large the issues might be and, therefore, not take steps to prevent the dilemma.
- May be foreseen, but there is no way to avoid it.
- May be anticipated but what to do might not be clear.
- May not be covered by available polices or the policies may not be specific enough to answer questions or provide guidance.
- Can result when duty to the individual conflicts with laws, policies or expectations.
- Can result when employees willfully or maliciously engage in behaviour they know violates ethical principles.

Ethical Decision Making Process

Following is a list of questions which can help to clarify an ethical dilemma, determine risks/benefits and identify possible alternative courses of action.

1.   Describe the actual or perceived ethical dilemma:
2.   What are the ethical issues?
3.   What was the outcome of the ethical issue?
4.   Who was affected by the outcome of the ethical issue?
5.   How were those identified in Question 4, affected by the outcome of the ethical issue?
6.   Do you have personal beliefs, biases or self interests that may have a bearing on the ethical issue? If so, what are they?

7.   How does the ethical issue conflict with Vista Centre's Code of Ethics/Values?
8.   What are the short term, ongoing and long term risks associated with the ethical issue?
9.   What are the short term, ongoing and long term benefits associated with the ethical issue?
10.   What are the alternative courses of action (take into account your response to the points raised above)?
11.   Which alternative course of action would you take to prevent future occurrences?
12.   Should the Code of Ethics/Values be modified? If so, how?

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