



**Visionary Leadership for Psychiatric-Mental Health Nurses around the World**

**INTERNATIONAL SOCIETY OF PSYCHIATRIC-MENTAL HEALTH NURSES**

**White Paper, December 2014**

## **Rights of Children Receiving Psychiatric and Substance Disorder Treatment**

### **I. Statement of Position**

The majority of children in the United States develop into healthy adults, with the capacity to lead a meaningful life and contribute to society. At any given time, however, one in ten youth exhibit behaviors which meet criteria for a serious emotional disorder (SED); a mental health problem that has a significant impact on the child's ability to function in social, emotional and academic realms.

Evidence-based treatments exist for children and adolescents experiencing SEDs and these youth and their families have the right to access and receive these therapies in the least restrictive environment. Psychiatric Mental Health (PMH) nurses maintain their professional and social responsibility to assure that youth receive timely, effective and appropriate services which preserve their basic rights.

## **II. Purpose**

The purpose of this paper is to provide information and guidance to PMH nurses and the interdisciplinary team who provide psychiatric and substance disorder treatment to youth and their families and support for their efforts to assure treatment is delivered in a manner that preserves the rights of these children and their families.

## **III. Background**

The rights of children have been formally recognized for close to 100 years, internationally by the Geneva Declaration of the Rights of the Child in 1924 and then again in 1959 by the UN general Assembly in their Declaration of the Rights of Children. These documents detail the fundamental rights of children to both happiness and enjoyment and freedoms without distinction or discrimination in regard to race, color, or sex (UN General Assembly, 1959). Fundamental rights extend to the child who is physically, mentally or socially handicapped and stipulate that these children will be given “the special treatment, education and care required by his particular condition”. Finally the declaration is explicit that children shall be protected against all forms of neglect, cruelty and exploitation. These rights were confirmed by the Convention on the Rights of the Child (CRC) in 1989; a document which again outlines guiding principles including non-discrimination, adherence to the best interests of the child, and the right to life, survival and development (United Nations, 1989). The document also stipulates children’s participation rights, i.e. the right to freedom of expression and to participate in matters affecting all realms of their lives; social, economic, religious, cultural and political.

### **Rights of Children in Mental Health Treatment**

Recently the UN Convention on the Rights of Persons with Disabilities (CPD) (United Nations, 2007) detailed the rights of children in treatment for psychiatric disorders. The CPD statement underscores the right to human dignity and a child’s right to inclusion in

their own health care. Koelch and Fegerti (2010) note that while not all children with SED become disabled several SED conditions would be considered chronic thus these rights apply. Since the tenets of both of these UN conventions are relevant to children in treatment several of the principles will be highlighted here and then their implications for providers of psychiatric treatment. Of note is the failure of the United States to ratify the UN CRC, political position based in the complex interplay of conservative interpretation, e.g., that the CRC infringes on the paternalistic rights of families to punish children as they see fit, as well as the reluctance of the US to enter into international compacts seen to impose restrictions on how US rights are derived from the nation's constitution (Engle, 2011). Unfortunately in its failure to ratify the CRC the US lets pass opportunities to shape concepts around the best interests of children and their rights, concepts that evolve and impact international child rights issues (Faas, 2011).

The UN convention document has over 40 articles and includes language that providers of psychiatric/mental health services should be vigilant in assuring all of these rights are preserved while children are in their care. Cited here are rights that have particular relevance due to the nature of psychiatric treatment. Also highlighted are rights that are particularly relevant to providers of inpatient psychiatric treatment including: the expectation that institutions conform with regulatory standards, particularly in the areas of safety, health, and in the number and suitability of their staff (Article 3); that a child shall not be separated from his or her parents against their will, except in a judicial determination which is in accordance with applicable law deems that such separation is necessary for the best interests of the child (Article 9); and that a child will be protected from all forms of physical or mental violence, injury or abuse, neglect or negligent while in the care of parent(s) or legal guardian(s) or any other person who has the care of the child (Article 19). There are also articles, which address the rights of mentally or physically disabled children to enjoy a decent life, have needed resources, and have access to education and health care services. In discussing these rights, Koelch and Fegerti (2010) underscore that children should have access to appropriate services that have the best evidence of effectiveness and that providers respect the child's

autonomy, particularly with increasing age and in instances where the treatment is against the child's will.

#### **IV. Recommendations**

In light of these well-recognized rights of children, ACAPN underscores the following rights of children receiving mental health services with particular emphasis on treatment at psychiatric facilities and residential treatment centers:

- 1. All children have the right to be treated with dignity and free from mistreatment, abuse, and neglect.*
- 2. In the event that psychiatric treatment is necessary, children have the right to appropriate treatment in the least restrictive available setting.*
- 3. Children with mental health needs should have access to a comprehensive set of behavioral health care services, both 24-hour and non-24 hour care and treatment.*
- 4. Treatment (including, therapies, medications and educational activities) must be clinically justified, be within the realm of professional standards of practice and be supported by empirical research data.*
- 5. Determining care/ behavioral health treatments begins with a comprehensive evaluation that identifies the child's needs, matches these needs with evidence based services, and elaborates their implementation in an individualized plan of care.*
- 6. The initial evaluation of a child's mental health and treatment needs should consider a range of factors that impact on the child's mental well being including family dynamics, education, social issues, and medical co-morbidities.*

7. *To meet the needs of youth with mental health and substance use issues, a full complement of community and 24 hour services must be available and children have the right to funding systems commensurate with the costs of delivering needed services.*

8. *Within the legal parameters established at an institution, children have the right to review the information in their medical record with supervision. The right extends to the child's family or guardian.*

9. *Children have the right to have their records kept private and to be told about the conditions under which information about them will be disclosed without their permission.*

10. *Children and their families have the right to a treatment plan that is individually developed. This treatment plan should be developed in collaboration with children and families and should be monitored for appropriateness and for patient progress on a regular basis.*

11. *Children and families have the right to be told about the care, procedures, and treatment that they are given in terms that they will understand.*

***In the event a child is admitted to a 24-hour psychiatric inpatient treatment facility:***

12. *At the time of admission to a facility, a copy of their rights should be given to the child and his/her family and explained to them verbally by a licensed staff member. In the event that the child is very young, the rights should be explained to them in a way commensurate with their level of understanding.*

13. *Children have the right to be cared for in a developmentally appropriate way by competent certified professionals who have had both the salient education and experience necessary for clinical practice with a pediatric population.*

14. *Prior to admission, the child and his/her family or guardian(s) have the right to be informed of institutional rules and regulations regarding visitation/contact with the child and their rights in the event of the use of seclusion or restraint or emergency medication.*

15. *Children in treatment have the right to talk and write to persons outside the facility without having such communication censored or monitored unless such monitoring is clinically justified for the safety of the child or others. This right includes the right to contact an attorney.*

16. *Children should not be physically restrained (restriction of body parts by device or by placement in an isolated, locked room) unless every avenue of prevention of harm to themselves or others has been exhausted.*

17. *Children and families have the right to information about the staff members who are their caregivers such as their professional discipline, job title, and responsibilities.*

18. *Children have the right to have access to an advocacy group (such as Advocacy, Inc.) as well as access to support groups such as the National Alliance for the Mentally III.*

19. *Families have the right to be involved in decisions regarding placement, treatment and discharge planning.*

20. *Families have the right to voice concerns about treatment if they believe their child's rights have been restricted or violated.*

## **References**

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## **Resources**

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