

# UBH TERM NEWSLETTER



PHONE: 1-877-UBH TERM (824-8376) FAX: 1-877-624-8376

JUNE 2010



To contact UBH TERM staff:

1-877-UBH-TERM (1-877-824-8376)  
**NEW FAX # 1-877-624-8376**

Tyler Gabriel, PhD  
TERM Manager  
Tyler.Gabriel@optumhealth.com

LeAnn Skimming, PhD TERM Psychologist	Nancy Cowden, MFT TERM Clinician
Shannon Shepherd, MFT TERM Clinician	Anna Williams Lead Clinical Support
Relanie Del Corro Clinical Support	Keshona Rolle Clinical Support

Zelda Pierce  
Provider Services  
Tel: 619-641-6836

## TERM MANAGER MESSAGE

Amazingly, our first year on the job has almost passed, and I think it's safe to say that we negotiated the transition successfully. Credit should go to all the TERM providers, CWS staff and leadership, County Behavioral Health Services, the Probation department, County Council, the District Attorneys and Public Defenders. You have all been collaborative partners with UBH TERM in identifying issues and developing positive solutions that are in the best interests of the children and families that we serve. Thanks to all, and let us continue to keep the spirit of teamwork thriving.

We have a major announcement. United Behavioral Health is undergoing a Brand Refreshment (actually San Diego is one of the last holdouts of the UBH name). As of July 1<sup>st</sup>, we will be known as **OptumHealth TERM**. To be clear, this is not a different company or a buyout, we are the same people in the same company.

Our goals for this coming year include broadening our methodology for how we will proactively support providers in meeting TERM requirements and guidelines. In that vein, we review common reasons for complaints regarding providers that we have encountered this year. Also, we have included an article by Sharyn Leonard, Supervising Public Defender on how to communicate with attorneys.

Have a great summer!

Tyler J. Gabriel, Ph.D.  
UBH TERM Manager

### INSIDE THIS ISSUE

- 1 TERM Manager Message
- 2 Announcements, Policy Reminder, Causes for Complaints
- 3 A Word About Documentation  
TERM Advisory Board Representatives
- 4 How to Deal With Attorneys

## ANNOUNCEMENTS! Starting JULY 1<sup>st</sup>:

- United Behavioral Health will be [OptumHealth](#)
- The Dependency Legal Group of San Diego, headed by Candi Mayes, has contracted with the Court to replace the Public Defender's Office in all juvenile dependency court cases. TERM will keep providers aware of any information relevant to this transition via eblasts. Please look for more information to follow.

### Policy Reminder

**Retro-Authorizations will no longer be accepted. This change went into effect April 1, 2010.**

The current policy on treatment authorizations requires that the authorization be received prior to the provider rendering any *initial* services. (Page 63 of current TERM Provider Handbook).

For **Continuing Authorizations**, providers are required to e-mail the client's PSW **and copy the Protective Services Supervisor (PSS)** when the authorization end date is **4 weeks** away. This time frame will facilitate you receiving the additional authorization in a timely manner.

If you are having difficulty receiving a response from the PSW or PSS, please notify the CWS Manager. Also please notify TERM staff, providing the PSW and client name, so that TERM can track the number of continuing authorizations that are received late by providers.

#### **Please Note:**

Documentation on Treatment Plans which states any of the following: "Therapist observation," "client report," or "social worker report" as behavioral measures on treatment plans are not acceptable, and TERM will request a revision.

### Common Causes for Complaints

From July 1<sup>st</sup>, 2009 to May 31<sup>st</sup>, 2010 UBH TERM has reviewed a total of 2,046 Treatment Plans, 886 Probation Psychological Evaluations, and 288 CWS Psychological Evaluations.

During this time frame, TERM has received 39 complaints about providers, 19 were substantiated. In addition to receiving complaints from outside entities, TERM can initiate a complaint as well. Here are some of the most common complaints that we have received:

1. **Not following TERM Guidelines**- The most common complaints that have been substantiated has involved: 1) late reports, and 2) Sending reports to other entities before TERM was able to review.
2. **Not responding to TERM outreach** – During the initial part of our contract year, some providers did not respond to TERM phone calls or letters about their reports. This lack of response resulted in a complaint. Providers have significantly improved in their responding to TERM outreach efforts.
3. **Not addressing protective issues**-Providers are required to address the protective issues as identified by the PSW.
4. **Providers not accepting true findings/Objectivity/Role**- Providers are also expected to accept the true findings of the Court. Complaints are substantiated when reports do not accept the true finding, when provider objectivity may appear biased, or specific placement or visitation recommendations are made that go beyond the scope of the provider's role. Please refrain from questioning or investigating the true finding in your reports. We encourage the providers to collaborate closely with the PSW when they have concerns about the case.
5. **Informed consent/non-standard referrals**- Cases where the client referral came to the provider outside the CWS referral process continue to be problematic. Please remember that as a TERM Provider, you are required to provide informed consent about the pros and cons of each treatment option, and that thorough documentation is critical to address complaints in such situations.
6. **Inadequate documentation**- An underlying factor that has been common in almost all of the substantiated complaints, has been inadequate documentation on the provider's part. Even when the providers followed procedures appropriately, often the documentation fails to adequately describe their actions in sufficient detail.

We have all heard “If it’s not written down, it didn’t happen,” and this is particularly true given the forensic environment in which we operate. For example, simply noting “called PSW” is not adequate. For your own protection, a provider is expected to document: “6/3/10, Called PSW, left voicemail, stated the client missed session today, please advise.” We have had to substantiate more than one complaint where the provider “probably did the right thing” but they didn’t document their actions adequately.

At a *minimum*, case notes should be on separate sheets of paper, in ink, dated, signed, and include the CPT code and the amount of time spent face to face with the client. If you haven’t worked at an agency, hospital or other facility, you should acquaint yourself with SOAPE or other standard progress note formats. TERM staff is always available to consult with regarding this or any of the matters discussed above.

Please refer to the Record Keeping- General Guidelines in the Fee For Service Provider Manual, which state:

“Progress notes must be written for each service billed. The note must include: date of service. DSM-IV-TR Code(s) and corresponding CPT Billing Codes which is the focus of session, provider signature, provider printed name, provider credentials, and date note was completed.

An **individual psychotherapy** note must outline:

- Client’s complaints, symptoms, appearance, orientation
- Change in cognitive capacity
- Changes from previous visits
- Potential for harm, if any
- Any new precipitator
- Any new strengths
- Focus of session
- Provider interventions
- Progress towards client goals

A **family session** note must also identify all those present and their contribution and response to interventions.

A **collateral session** note must identify the significant support person(s) participating in the service being documented and describe the purpose related to the client’s needs. The provider’s contribution and overall plan of action must be outlined when documenting consultations or other team meetings.”

## Meet your TERM Provider Representatives

The TERM Advisory Board meets monthly to discuss policy issues, and provide recommendations to UBH TERM. Providers are represented on the Board by:

Christopher Carstens, Ph.D., for psychologists  
[contact@drcarstens.com](mailto:contact@drcarstens.com)

Roberto Weiss, MFT, for therapists  
[rweiss@motivaassociates.com](mailto:rweiss@motivaassociates.com)

Jeff Rowe, M.D., representing the S.D. Psychiatric Society & the S.D. Academy of Child & Adolescent Psychiatry  
[jeff.rowe@sdcountry.ca.gov](mailto:jeff.rowe@sdcountry.ca.gov)

Deborah Shriver, MFT, for organizational providers  
[dshriver@nclifeline.org](mailto:dshriver@nclifeline.org)

Marilee Wasell, Ph.D.\*, representing the S.D. Psychological Association  
[marileewasellphd@yahoo.com](mailto:marileewasellphd@yahoo.com)

Please feel free to contact these representatives with your ideas or suggestions.

\*Dr. Wasell is stepping down from the Board, and we thank her for her time served and her support. If you are interested in being the SDPA representative on the Board, please call Mary Harb-Sheets, SDPA President.

## HOW TO DEAL WITH ATTORNEYS By Sharyn Leonard, Supervising Public Defender

It happens from time to time. You’re busy with a demanding schedule: patient meetings, reports, running a practice and dealing with your personal life on top of it all. There are deadlines to meet. There just isn’t enough time to do everything you have to do and you feel like you’re on a treadmill. Then, you get a message from an attorney about one of your patients. She has questions for you. Great! You really don’t have time for this. What do you do?

1. **Call her back.** It may be that a 3-minute phone call will take care of the matter completely. This is not always the case, but it is the case often enough that making that return call should not be avoided. The questions are frequently simple and can be answered succinctly.

The lawyer may need clarification on a single point in your report. If the report was prepared sometime ago, an update on the patient may be needed. Also, it may be that the judge or another party has asked the lawyer a specific question that needs to be answered in order to resolve the case for everyone. If you put off the return call, the chances are excellent that you will just get another message. Remember, your patient is her client. So, phone her back.

2. **The call is not from my patient's attorney.** Call back anyhow. In juvenile delinquency matters, the District Attorney is involved in determining alternatives for youthful offenders which also protect society. There may be a statement in your report that he doesn't understand. In juvenile dependency matters, there are several attorneys involved: a Deputy County Counsel represents the Health and Human Services Agency, and there are separate attorneys for the minors, mother(s), and father(s). Lots and lots of lawyers are looking at your patient and at your report. However, as is the case with your patient's lawyer, it may be that a simple call can take care of the situation and avoid any further inconvenience to you.
3. **Don't let yourself feel intimidated.** Remember, lawyers are advocates, and they are aiming for a particular outcome, one that may not fit at all with your evaluation of your patient. You are the behavioral health professional and you have an ethical responsibility to report on what you have evaluated and observed. Do not allow yourself to be persuaded to voice an opinion that you are not comfortable with. Answer the attorney's questions if you can ethically do so. If you aren't sure whether your patient has waived the patient/therapist privilege, assert it. If your patient has waived the privilege, ask his attorney to give you written confirmation of that fact for your records. Do not venture into areas where you are not comfortable being led.

4. **She's talking to me about testifying.** Maybe so, but this may not turn out at all the way it sounds. Remember that the juvenile courts are extremely busy and time is as valuable there as yours is. Because of this fact, many judges will permit telephone testimony by a witness. This involves being available by phone at a particular time and answering the questions asked of you by the parties' attorneys, and sometimes by the judge, to the best of your ability. This may take as little as 10 or 15 minutes. On top of that, you avoid driving to the courthouse, waiting outside the courtroom to be called and needing to rearrange hours of your schedule. On other occasions, a simple letter written by you may suffice. You should talk to the attorney who has contacted you about these options to see if you can avoid having to go to court at all.
5. **She actually wants me in court.** First of all, do not avoid service of process. It is a formality of the court that a subpoena must be given to you personally unless you agree to make yourself voluntarily available to testify. The subpoena is just a document which has the name of the case; the date, time and location of the courtroom where the hearing is scheduled; and the name and phone number of the attorney who is calling you as a witness. Avoiding service is rarely successful in the long run and is a tiring process for you and for the process server, usually an employee of the sheriff's department or of the office of the attorney summoning you. When you are served, call the attorney at the number on the subpoena right away to discuss the logistics of your appearance in court. Remember that acceptance of a subpoena does not mean you will definitely have to testify. It is still possible that telephonic testimony may be permitted. Also, cases frequently settle on the eve of trial, and witnesses then are called off. Be sure to listen to your messages right before you leave for the courthouse. You may not be needed because of a last-minute resolution of the case.

6. Here I sit on the witness stand. Finally, if you actually do wind up in court, know what to expect. You will first be asked to take an oath of truthfulness. You will likely be asked some questions about your credentials as a behavioral health professional. These questions are to demonstrate that you are an expert in your field. Next, you should be prepared to answer questions about your report, your methods, and your observations of your patient. Review your written report before going to court so that you are familiar again with what you wrote. Have it with you so that you can review it to refresh your recollection while you are on the witness stand. If you are unsure whether your patient has waived the patient/therapist privilege, tell the judge. Your patient's lawyer can then put on the record that the privilege has (or has not) been waived. Think about each question you are asked in court before answering and then respond as clearly as you can. Do not volunteer information, even if you believe it is important. The question-and-answer format is perhaps a little stilted, but it is the way that courts receive information from witnesses in virtually every type of case. When the attorney who called you to testify has concluded her questions, you will likely be asked more questions by one or more of the other attorneys and even by the judge. If so, it may be that the attorney who called you will then have even more questions. This is the normal procedure, known as examination and cross-examination. You must remain until the judge has excused you as a witness or otherwise directs you.

7. What about payment for all of this additional work? You certainly have a right to request to be reasonably compensated for additional work and time you are asked to spend in your patient's case. This is an area in which you may have to negotiate. Many of the attorneys are appointed by the court and will refer to TERM compensation rates when they talk to you about payment. There are some attorneys who are retained, and who do not have governmental spending restrictions. In either case, you should:

- a. **Make sure you fully understand just what the attorney is asking you to do.** Ask questions, get explanations and go over everything a second time so that what is requested is clearly understood by both you and the lawyer.
- b. **Discuss how you will be compensated.** Will you be paid an hourly rate? A fee for your court appearance and testimony? How complicated is the work you are being asked to do? Remember, this is an area in which you have a say as well as the attorney. If an appointed government agency lawyer, she will need to get authorization from a supervisor for your compensation. Ask if that authorization has been given.
- c. **Make sure your compensation arrangement is in writing,** both the work you will be undertaking and the manner and amount of payment you will receive. Usually, the lawyer will write you a letter summarizing what you are being asked to do and how much you are to be paid. Review this letter, and if you believe it is not accurate, contact the lawyer right away. It's easier to correct a misunderstanding early in the process than after the work has been completed.
- d. When you have concluded your extra work, **you must bill the attorney** who asked for your additional efforts, not TERM. Be sure to have all the billing information you will need, including the case or petition number, name of the attorney, name of the attorney's client (who may not be your patient) and the billing address. You will need to provide your TIN or SSN. To the greatest extent possible, the bill you present should be itemized and specific. For governmental agencies such as the Public Defender's Office, your bill and additional supporting documents provided by the lawyer will be scrutinized and approved at the department level.

After approval, your bill will be sent to the County Auditor and Controller's office, which will issue and mail your check a few days after receipt of the paperwork. Be patient. This process can take up to 30 days.

Finally, we want to ensure that your experience with parties' attorneys is a positive one. If you have a problem that you feel cannot be resolved with the attorney directly, contact the attorney's supervisor, if she is a governmental agency lawyer, or let the HHS social worker or probation officer know if the lawyer is private or retained. We want to ensure that the process goes smoothly for you and for your patient. If you have any questions that we have not covered and that cannot be answered by the attorney involved, let us know and we will try to help you get an answer. We hope that the information we have provided will prove helpful to you in future discussions with lawyers.