

NAVIGATING SERVICES AND SUPPORT ISSUES WITH PARENTS AND LAR'S.

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OVERVIEW

- Review applicable laws and regulations.
- Potential issues arising in relationships.
- Management of risks.

LAW & REGULATIONS

- Persons with Intellectual Disability Act.
- HCS Regulations.
- APS.

Rights and LAR's

WHAT IS AN LAR

- Persons with Intellectual Disabilities Act:

Guardian: “means the person who, under court order, is the guardian of the person of another or of the estate of another.”

- Regulations

LAR--Legally authorized representative. A person authorized by law to act on behalf of a person with regard to a matter described in this subchapter, and may include a parent, guardian, or managing conservator of a minor, or the guardian of an adult.

PERSONS WITH INTELLECTUAL DISABILITY ACT

- To be advised of Rights.
- To report abuses to Consumer Rights
- Medication
- Not to be mistreated, neglected or abused
- To withdraw individual from program.
- Right to Access record

PLANNING AND THE PARENTS OR LAR

- Right to participate in planning treatment and habilitation.
- Right to be informed in writing at reasonable intervals.
- Given the right to choose among several appropriate alternative services from a service provider, if possible..
- This includes participation in development and reviews of individualized habilitation plans.

Rights

REGULATIONS

- Authority to make certain decisions on behalf of individual.
- Participate in participation of development and review of individualized treatment plan and to receive in writing.
- Choose from several appropriate services, if possible.
- To withdraw individual.
- Regarding medication.
- Initiate complaint.
- Written notice of rights.

Rights

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- Access to information contained in record.

Rights

CERTIFICATION PRINCIPLES: HCS

- Including LAR in decisions like:
- Notice of illness and accident and emergencies:
- Relocation
- Privacy (lock on Individual's doors)

POTENTIAL CONFLICTS

- Choice of Staff.
- Interference with staff.
- Invading privacy of other Individuals.
- False reporting to APS.
- Disputes over nursing & medical care.
- Ending the relationship.

STAFF CHOICE

40 TAC 9.177

- Employ or contract with LAR's choice?
- Except may choose not to based on "good cause."

Firing staff of choice. Document good cause.

INTERFERENCE WITH STAFF

- Monopolizing staff.
- Intimidating staff.
- Threatening professional licenses.

INVADING PRIVACY OF OTHER INDIVIDUALS

- Walking into bedrooms without permission.
- Asking staff intrusive questions.

FALSE REPORTING TO APS

- Reporters have immunity for reporting unless:
 - Acted in Bad faith.
 - With malicious purpose.
- False reporting:
 - (a) A person commits an offense if the person knowingly or intentionally reports information as provided in this chapter that the person knows is false or lacks factual foundation.
 - (b) An offense under this section is a Class A misdemeanor.

ENDING THE RELATIONSHIP

- Must
 - “serve an eligible applicant who has selected the program provider” unless have reached service capacity.
- Discharge

Discharge



V.T.C.A., Health & Safety Code § 594.011

§ 594.011. Service Provider

A service provider shall transfer a client, furlough a client to an alternative placement, or discharge a client if the service provider determines:

- (1) that the client's placement is no longer appropriate to the person's individual needs; or
- (2) that the client can be better treated and habilitated in another setting; and
- (3) placement in another setting that can better treat and habilitate the client has been secured.

CONDITIONS

- Notice 31 days prior.
- Notice to LAR.
- Access to Administrative Process.

NURSING ASSESSMENTS IN TAC

- (31) ensure that nursing is provided in accordance with the individual's PDP; IPC; implementation plan; Texas Occupations Code, Chapter 301 (Nursing Practice Act); 22 TAC Chapter 217 (relating to Licensure, Peer Assistance, and Practice); 22 TAC Chapter 224 (relating to Delegation of Nursing Tasks by Registered Professional Nurses to Unlicensed Personnel for Clients with Acute Conditions or in Acute Care Environments); 22 TAC Chapter 225 (relating to RN Delegation to Unlicensed Personnel and Tasks Not Requiring Delegation in Independent Living Environments for Clients with Stable and Predictable Conditions); and Appendix C of the HCS Program waiver application approved by CMS and found at www.dads.state.tx.us and consists of performing health care activities and monitoring the individual's health conditions, including:

Disputes over Nursing & Medical Care

NURSING ASSESSMENTS CONT'D

- (J) an RN doing the following:
 - (i) performing a nursing assessment for each individual:
 - (I) before an unlicensed service provider performs a nursing task for the individual unless a physician has delegated the task as a medical act under Texas Occupations Code, Chapter 157, as documented by the physician; and
 - (II) as determined necessary by an RN, including if the individual's health needs change;

NURSING ASSESSMENT CONT'D

- (d) If an individual or LAR refuses a nursing assessment described in subsection (a)(31)(j)(i) of this section, the program provider must not:
 - (1) provide nursing services to the individual; or
 - (2) provide host home/companion care, residential support, supervised living, supported home living, respite, employment assistance, supported employment, day habilitation, or CFC PAS/HAB to the individual unless:
 - (A) an unlicensed service provider does not perform nursing tasks in the provision of the service; and
 - (B) the program provider determines that it can ensure the individual's health, safety, and welfare in the provision of the service.
- (e) If an individual or LAR refuses a nursing assessment and the program provider determines that the program provider cannot ensure the individual's health, safety, and welfare in the provision of a service as described in subsection (d) of this section, the program provider must:
 - (1) immediately notify the individual or LAR and the individual's service coordinator, in writing, of the determination; and
 - (2) include in the notification required by paragraph (1) of this subsection the reasons for the determination and the services affected by the determination.

OPTIONS?

- Discontinue services and take the heat.
- Shut down home.
- Continue services

RISKS

- Regulatory liability?
- Civil liability?

MINIMIZING RISKS

- Documentation.
- Monitoring.
- Increased scrutiny.