

**Comments for State Listening Session on Regulatory Reform
November 4, 2015
Springfield Mass.**

Thank you for the opportunity to comment. My name is Deirdre Hunter and I am the Vice President for Developing Abilities, a division of JRI. My address and contact information are below.

My comments are provided in the format recommended on the website,
<http://www.mass.gov/anf/regreview.html>.

DCP MAP Policy Manual 01/01/15, Policy No. & Issue:13-5 Health Care Provider's Orders via Fax

Themes: Person with Disabilities and Health Care

Affiliated Agencies: DPH Lead Agency; administered by DCF, DMH and DDS

Issue: Medication Administration Policy (MAP) accepts only an electronic signature which is an image of their signature (a photographic image) on doctors' orders from Health Care Providers (HCP). To comply with this requirement, HCP's who use electronic health records (which have a typed signature) must produce a doctor's order with a wet signature for their patients whose medication administration is subject to MAP. This includes clients of DCF, DMH and DDS. Individual physicians, HCP practices and hospital systems balk at having to produce orders with wet signatures, resulting in unnecessary delay in care for patients. The practice required by MAP is outdated and adds to the bureaucratic burden of the HCP available to serve people subject to MAP.

Suggestion: Revise MAP to accept doctors' orders authorized with a typed signature as is common for electronic health records.

115 CMR 9 Investigations and Reporting and 115 CMR 5, Rights, Sections 9.06 and 9.15 and Section 5.05 and GLc 19c, Section 5

Theme: Person with Disabilities, Abuse by Caretakers

Affiliated Agencies: DDS, DPPC

Issue: The interpretation of regulations regarding reporting potential or suspected abuse, mistreatment and neglect of adults with disabilities has gone beyond the intent of reporting and preventing abuse; clogs the system with over-reporting and diverts resources. 115 CMR 9.06 mandates reporting complaints to DPPC when service providers have "reason to believe there is a non-frivolous allegation of mistreatment, an illegal, dangerous, or inhumane condition or incident, or a medicolegal death of an individual..." GLc 19c which defines the conditions which are mandated to be reported as, "Abuse", an act or omission which results in serious physical or emotional injury to a disabled person..."

In practice, these regulations have come to consistently be interpreted to include the mandated reporting of all signs of accident or injury. Human service providers are routinely advised to report accidents and injuries to persons with disabilities which are outside the definitions of the regulations, including minor injuries where there is no indication of serious emotional or physical injury and where the condition does not appear to the mandated reporter to constitute mistreatment or abuse, or be illegal, dangerous or inhumane.

One example of many is a situation in which mandated reporters were advised to make a DPPC complaint of potential abuse regarding the minor sunburn observed on the neck of an individual with a disability. Despite the caregiver/parent reporting how and when the person had gotten the sunburn, and the fact that the sunburn was minor and did not appear to be causing discomfort, a 19c complaint was filed and investigated in a process which took about 5 months. The investigation resulted in the complaint being unsubstantiated, but the waste of resources for the investigating body and the provider agency were obvious. For the caregiver/parent who was referred to as the "alleged abuser" in all reports, it created a painful wedge in relationships with the State case worker and provider staff and supported their sense that the adult child's real pressing needs were being ignored in the mean time.

I have seen similar situations play out many times. Every frivolous or “cover your back” report which results in a full investigation process weakens the intent of the regulations; misdirects limited investigatory and responsive resources; lengthens the time it takes to complete complaint investigations; and provides a dis-incentive for people to take on the important work of caregiving for people with disabilities. A system which encourages such reports produces unreliable incidence data on abuse and neglect and diverts resources from harm reduction and response activities.

Suggestions:

Restrict reporting expectations to the actual language of the regulations. Roll back the expectation that all injuries to adults with disabilities be reported, no matter how minor or where there is a known non-abusive/neglectful cause. Rely on existing incident reporting requirements to document the reporting and review of events which do not meet the threshold. Reduce the backlog of cases which are currently resolved well outside the regulatory time lines. Allow for more effective, efficient investigation of allegations as defined in the regulations and invest the savings in additional training and resources to support stressed caregivers and prevent real and potential harm.

115 CMR 5 Rights 5.04 (1) Rights

Theme: Person with Disabilities

Affiliated Agency: DDS

Issue: Formal written consent is required for each use of an image of adults receiving services. As the use of social media has expanded, the requirement for written consent for every social media post is an unreasonable restriction of individual’s access to participate in self-advocacy, community engagement and communication activities and places an unnecessary burden on staff time.

Suggestions:

Revise the regulation to allow an annual consent for use of images and participation in specific social media, with the right to rescind at any time.

115 CMR: 8 Licensing and Certification

Theme: Person with Disabilities

Affiliated Agency: DDS

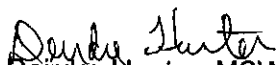
Issue: The licensing and certification of services contracted by DDS and provided by agencies and organizations is more extensive and burdensome than necessary to ensure the safe and effective provision of services. The preparation for and conduct of bi-annual licensing and certification surveys overuses resources of time, money and effort for the results achieved.

Suggestions:

Reduce the sample size of the survey, particularly for organizations which have achieved high survey results in one or more successive surveys. Smaller, targeted surveys can be equally effective at a lower cost in time, money and effort. Expand the acceptance of accreditation or deeming by nationally recognized bodies whose standards support relevant performance outcomes. Deeming removes the expense to the Commonwealth and provides nationally benchmarked standards. Expand the term of license and certification to 3 or more years for organizations which have achieved high survey results in one or more successive survey.

Thank you for the opportunity to provide comments.

Respectfully Submitted,



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