Alliance for the Betterment of
Citizens with Disabilities

Empowering People: Providers Shaping Policies

Assembly Human Service Committee

January 25, 2021

Good day Chairperson Downey and members of the Assembly Human Services Committee. My name is Cathy Chin and I am here on behalf of ABCD. Thank you for the opportunity to share our thoughts on A5247 which entitles legal guardians and certain other persons to receive detailed information on actual records in association with investigations involving abuse, neglect or exploitation of individuals with developmental disabilities.

Responsible Transparency

I wonder if much of what is being requested already exists. Please find attached, *Reporting Suspected Abuse, Neglect or Exploitation of and Individual with Intellectual or Developmental Disability,* July 2019.

We are of the opinion that in addition to the detailed Findings Letter which is currently available to the guardian, the individual and their guardian should have confidential access to redacted information regarding substantiated A+ incidences.

- Individual. Individuals with developmental disabilities must not be treated differently. Those who do not have a guardian, must be afforded the same right of access to this information.
- Individual and their guardian. Individuals have the right to confidentiality. Information, sensitive or otherwise, must not be shared before securing the permission of the individual or their guardian.
- Substantiated. Staff have fundamental human rights. Reported incidences can be found to have no preponderance or credible evidence. False, incorrect or unsubstantiated allegations distributed can damage reputation, character and integrity – everything.
- A+ incidence. These are highly unusual or pose imminent threat to life or safety. It is not uncommon for agencies to do a hundred reports per year. In our regulations, neglect is broadly defined, and regardless of the level of harm, includes intentional, unintentional and careless acts. Examples:

    - Unintentional. Staff finger gets caught in a door jamb and they yell a swear word in the presence of a resident. Swearing in front of a resident is not permitted and is a reportable incident.
    - Intentional. Staff tackles a resident to stop them from running into oncoming traffic. Tackling a resident is not permitted and is a reportable incident.

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- Carelessness. Individual falls to the ground because staff let go of their hand and the holding of the hand was in the individual's plan of care. This is a reportable incident.
- Two friends with no history of aggressive behavior, suddenly get into a fight and hit each other while in the bathroom. This is a reportable incident.

- Redacted Identifying Information. Human beings have the right to privacy and rehabilitation. Tragedies can occur in the best of agencies. Many staff in our reports are merely witnesses. We must make every effort to ensure that the information can't be used as a retaliatory tool outside of the established prevention protocols or for the purpose of litigation for which attorneys have discovery tools at their disposal. The individual and guardian know the name of the staff member and the agency.

And since we are human services, the provision of the substantiated A+ incidence information to the individual or guardian should be provided face-to-face in a meeting with the state and provider agency which, in the end, may achieve many more positive outcomes than if relayed in writing.

We all know that reckless transparency can erode trust, punish, shame and destroy. I have no doubt that what we are all working toward is responsible transparency to help heal and build trust.

The success of the individual is connected to the success of the provider.