

Human Rights and the Behavior Plan Process

LD 850.10H: Leadership Integrative Capstone

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Abstract

There are many individuals who are not aware of the rights that all humans have. The focus of this paper is to educate these individuals on individuals with disabilities rights and how they can still be supported without their rights being violated. Individuals with disabilities do not always know and understand what their rights are. This paper will encourage others to advocate on their behalf and kill the myth that individuals with disabilities do not have the same rights as individuals without disabilities.

Keywords: rights, disabilities, violated, advocate, educate

Human Rights and the Behavior Plan Process

There are basic human rights that include: the right to vote, get married, choose where to live, obtain a driver's license, and where they want to work. The human rights that are often overlooked and violated include but not limited to: supervision levels, internet usage, access to food, phone usage, chemical and physical restraints, and financial responsibilities. It is important to keep in mind that whether someone has a disability or not, everyone has rights that should never be violated. There needs to be education about the process of what happens when these rights are violated. By understanding the process of what happens, it will provide a clearer understanding on how to avoid violations from occurring.

Who is the focus of this project?

Moving further into the violation of rights, individuals with disabilities rights will be the focus of this writing. When there has been a violation of an individual's right, an investigation might be warranted if it involves abuse, neglect, or exploitation. This requires reporting the incident within 24 hours of the incident being witnessed or if one has been made aware of a situation, to the appropriate authority. The complaints can be reported by anyone, meaning it does not need to be a mandated reporter. Everyone who works for an agency providing supports to individuals with disabilities are mandated reporters. If someone knows about an incident and does not report it, they are not providing safe and meaningful services to the individual. The complaint process is when an investigator from the Bureau of Developmental Services, (BDS), is assigned once a complaint has been filed on behalf of the individual. "BDS is committed to joining communities and families in providing opportunities for citizens to achieve health and

independence.” (dhhs.nh.gov). Their mission is: “The developmental services system will join with local communities to support individuals of all ages with developmental disabilities or acquired brain disorders and their families to experience as much freedom, choice, control, and responsibility over the services and supports they receive as desired.” (dhhs.nh.gov). BDS is located in Concord, New Hampshire and covers the entire state. When one needs to file a complaint, they can call the toll-free number at 1-855-450-3593. There are intake specialists who gather the information needed from the caller. They are required to take the caller’s name and contact information, but the callers have the choice to remain anonymous. Once they have gathered the initial information, they will share it with BDS teams. The team will then assign a complaint investigator to the complaint.

What is the role of the Complaint Investigator?

The complaint investigator will start with meeting with the individuals and other team members to get details regarding the complaint that was filed. This process is worked on as quickly as possible, but at times it can be lengthy due to the amount of people that need to be interviewed. This can at times be difficult getting some of the people to respond to the investigator in a timely manner. It is up to the investigator to determine the outcome of the complaint investigation. In order for them to make a final decision, they are required to write their report and share it with the team at BDS. This is where their report will be reviewed and approved as the final decision of the complaint.

What happens when the investigation is completed?

Once the complaint investigator has finalized their report, they share it with the team. The report will have a summary of the interviews that were conducted throughout the investigation. The investigator will also include recommendations in the report on how the complaint might be

handled. The recommendations will be included in their final report whether the complaint was founded or unfounded. An example of a recommendation would be that the staff in question for the complaint, be retrained on clients' rights.

Once the final report has been made, it is up to the agency to complete a response form, (See Appendix A). It is important for the agency to respond to all complaints that have been filed. All complaints should be recorded whether they are founded or unfounded. This will assist with any future incidents with the parties involved.

Sentinel Events

There is a further process that is required to happen depending on the severity of the complaint. This process is known as a Sentinel Event. "Sentinel Events include unexpected deaths, permanent loss of function, or the risk thereof, suicides, rape and other serious events signaling the need for investigation." (dhhs.nh.gov). There is a form that is required to be completed when a Sentinel Event occurs. "Sentinel Event Reporting Forms are to be completed when a sentinel event occurs involving an individual or individuals who:

- Are receiving Department funded services;
- Have received Department funded services within the preceding 30 days;
- Have been evaluated by a service provider within the preceding 30 days; or
- Are the subjects of a Child or Adult Protective Services report." (dhhs.nh.gov)

In order to avoid violations of client's rights, a behavior support plan must be written and approved by a Human Rights Committee, (HRC). This committee consists of members to include, nursing, parents, law enforcement, case management, quality improvement team, individuals, and any other members who understand the rights of the individuals. The committee members are all volunteers for this service. They are provided with all of the plans prior to the

day of the HRC meeting. They review the plans and prepare questions about the plans and the restrictions that are being requested. They are the best ones to ask the questions as they do not know the individuals personally. All members remain neutral when voting on the plans. This also helps them with asking questions about the restrictions that others who do know the individuals and how it could potentially impact them. The committee remains mutual, but keeps the best interest of the individuals in mind as they are determining if the plan will be approved.

Behavior Plans and Safeguards

The behavior plans and safeguards can be approved for up to one year. Often times, if the plan was questioned at the time of its review, a shorter approval period will be granted. There are times where the plans are denied approval until there is further information provided to support the plan. In this instance, the committee can make the decision to provide a temporary approval. When a temporary approval has been granted, it is typically for up to 60 days so that it gives the team time to collect data and report back to the committee to address their concerns. The committee has the right to deny the approval of any part of the plan and or the entire plan.

There are statewide guidelines of items that are required to be included in the behavior support plans (See Appendix B). Some of these guidelines include signatures from the guardian showing they support the plan, medication information, descriptions of the targeted behaviors, replacement behaviors, fade criteria, responsibilities of who provides oversight for the plan, and data to support the need for the plan including blank copies of the data collection sheets. There must be data available to support the need for a plan. Without the data, it is difficult to get a Behavior Support Plan approved.

It is important to know not all of the plans are supporting challenging behaviors. Some of the plans are based on safeguards. These types of plans include the use of gait belts, bed rails, bed

shakers, and flashing smoke detectors. This is why it is important to make sure the plans are individualized to match the individual's needs.

The object of the behavior plans is to provide the least restrictive environments. When restrictions are suggested, there must be data to support the need for the restrictions. Just having a team that wants to have restrictions placed upon an individual does not justify the need for the plan or restriction.

Often times, there requires assessments to be completed or updated before moving forward with a behavior support plan. Examples of the assessments include a neuropsychological evaluation and a risk assessment. A risk assessment would provide what level of risk an individual is currently at that involves sexualized behaviors, arson, and any legal behaviors.

Reviewing the Behavior Support Plans and Safeguards

Overall, there are many parts to ensure that a client's rights are not being violated in any way. It is always best to review all plans at least on a quarterly basis. This is a great way for the team to review and see if the plan is best supporting the individual or if there needs to be amendments completed. This is where the data needs to be reviewed to see what the current status is. Changes to any of the plans can't be made unless the plans are brought before the HRC to obtain their approval. Justification for the changes must be present when bringing the plans to the HRC. See Appendix C for the HRC authorization page that must be included with all behavior support plans. There are signatures required prior to the plan being presented to HRC. The most important signatures are the author of the plan and the guardians. This shows the HRC that they have reviewed the plan and are reporting that they agree with all parts of the Behavior Support Plan for the individual. This authorization page includes the HRC signature and the

dates the plan have been approved for. It also includes details of the plan in the summary of circumstances section. This is a quick reference for the Behavior Support Plan.

Training on Behavior Support Plans

When an individual has an approved Behavior Support Plan, all staff must be trained prior to working with the individual on the plan. The trainer must be someone who has been trained by the author of the plan. If someone just reads the plan, this is not considered being trained on the Behavior Support Plan. There has to be discussion around the content of the what is written in the plan. There must be documentation that the staff have been trained on the plan. This can be considered a violation of the individual's rights if the staff are not trained properly. It is up to the staff to speak up if they know they have not been trained on the Behavior Support Plan for the individual they are being assigned to work with. If something happens while they are working with the individual and they were not properly trained, they could be in trouble for this and potentially lose their job and not be able to work in the field again.

Conclusion

In conclusion, it is important to know that everyone has rights. There needs to be continued education around the rights of individuals with disabilities. The myths must end about them not having the same rights as individuals who do not have disabilities. In theory, there are ways to educate others about how individuals with disabilities have rights just the same as individuals without disabilities. There must also be education on how a behavior support plan and client rights are connected in order to protect violations of people's rights. Moving forward there will be more individuals advocating for their own personal rights. Together, everyone can work together and be leaders by modeling what the outcome should be.

Appendix A

Complaint Investigation Response to Recommendations

INDIVIDUAL'S NAME: Client First Name Last Name

DATE OF COMPLAINT: Per the BDS report, the date the complaint was filed

DATE OF REPORT: Per the BDS report, the date the report was written

INVESTIGATOR: Name of investigator that completed BDS report

RESPONSE DUE BY: Per the BDS cover letter, the date that the response is due

DATE OF RESPONSE: The date that this response was submitted to the Area Agency

AGENCY COMPLETING THIS RESPONSE: Vendor/ Provider Agency or Area Agency Name

This investigation was conducted to determine if Client First Name Last Name rights under He-M He-M number(s) per report were violated. The report was determined to be Founded or Unfounded against Respondent name(s) as identified in BDS report. If there were multiple findings, include the additional finding(s) after the respondent name in this section.

Proposed Recommendations and Response:

1. It is recommended that...Exact language of recommendation in BDS report
 1. Response- Include specific actions taken to address the recommendation above. Some examples of this might include team meeting, training, Service Agreement amendments, staff supervision/ discipline, etc. Attach written proof/ documentation of the completed action. If action has not yet occurred, please include specific timeframe for completion. Once completed, please ensure that written proof/ documentation is submitted to Area Agency.
2. It is recommended that...Exact language of recommendation in BDS report
 - a. Response- Same as above
3. It is recommended that...Exact language of recommendation in BDS report
 - a. Response- Same as above
4. It is recommended that...Exact language of recommendation in BDS report
 - a. Response- Same as above
5. It is recommended that...Exact language of recommendation in BDS report
 - a. Response- Same as above

6. **It is recommended that...Exact language of recommendation in BDS report**
 a. **Response- Same as above**
7. **It is recommended that...Exact language of recommendation in BDS report**
 a. **Response- Same as above**

Please feel free to contact me with any questions or concerns that you might have. I can be reached at phone or email.

Sincerely,

Name of person completing this written response

Title of person completing this written response

Appendix B

Behavior Plan/ Protocol Requirements

ALL LEVELS PROCEDURES – Reviewed and authorized by Human Rights Committee

The plan/ protocol must include:

I. HRC Behavior Plan/

Protocol Approval Request form

II. Profile to include the following:

a. Demographic information

- i. Name of individual
- ii. Birthdate
- iii. Diagnoses
- iv. Personal profile (person-centered/ whole description of the individual, not just behaviors- include a brief historical overview that relates to the need for plan/ protocol)
- b. Type of services currently rendered
- c. Program site: Where plan will be implemented (i.e.

residential, CPS, etc.) III. Rational for Plan/ Protocol:

a. Target behaviors to be addressed (clearly defined in measurable/ observable terms)

b. Current justification of need for intervention(s)

c. Hypothesized function of target behaviors

d. History of other approaches attempted, including evidence of a review of environmental, medical or emotional contributors to challenging behaviors IV.

Strategies/ Techniques:

- a. Behavioral goal(s), if appropriate
- b. Baseline data
- c. Proactive techniques
- d. Replacement/ desirable behaviors and strategy to teach
- e. Antecedents to target behaviors
- f. Precursor Behaviors
- g. Reactive techniques/ strategies for each target behavior
 - i. The expected response/ intervention of staff to each target behavior or precursor behavior
 - ii. Follow-up required after occurrence of behavioral incident
- h. Expected immediate response to dangerous behaviors
- i. Identification of physical intervention technique, if applicable, along clear guidelines around implementation
- i. Environmental adaptations/ restrictions, if applicable
- j. Psychotropic PRN protocol incorporated into plan/ protocol, if applicable
 - i. Include data of PRN administration
- k. Description of potential risks and side effects to the

individual with this plan/ protocol V. Monitoring:

- b. Data collection on target behaviors (e.g. incident reports, tracking sheets, etc.)
 - i. Physical restraint documentation (if applicable) must include, at minimum, the antecedent, duration, description of restraint, response of individual, and debriefing (if appropriate).
- c. Expected monitoring of plan/ protocol
 - i. Frequency of monitoring (minimum of quarterly)
 - ii. Person responsible for monitoring
 - iii. Description of monitoring
- d. Criterion for revising plan/ protocol
 - i. Fade and termination criteria (note- if this revolves around a behavioral goal, then this goal must be reflected in the Service Agreement, as well)
 1. Transition plan or fading procedure to less restrictive interventions
 - ii. Explanation as to when a team review/ meeting would be necessary

- iii. Any planned reductions to restrictions in plan should be clearly outlined
(e.g. gradual increase in alone time based on no target behaviors)

- e. Expected training of staff
 - i. Frequency of training, including statement that training must occur prior to working with individual
 - ii. Person responsible for training
 - iii. Include expectations pertaining to any additional training requirements (e.g. physical intervention technique)

VI. Formatting Expectations of Plan/ Protocol:

- a. Footer on each page containing page number and total number of pages (e.g. page 1 of 7), and name of individual
- b. When referencing other portions of the plan/ protocol, be specific about location in document
- c. Include plan author, revision author, edit date and level (if applicable)

Appendix C

Human Rights Committee (HRC)
Behavior Plan/Protocol Approval Request

Individual's _____ Name: _____ Duck #: _____
 Provider _____

Agency(s): _____ Guardian: _____

Date of Plan Submission: _____ Date of Plan: _____

Reason for Submission:

- New Plan/ Protocol Annual Re-Approval **with changes** (must highlight changes)
- Emergency/Interim Plan/ Protocol Annual Re-Approval **without changes**
- Current Plan/ Protocol Extension Request Plan/ Protocol Termination
- Current Plan/ Protocol Revision PRN Protocol

Current Submission packet includes:

- Current Plan/ Protocol Summary & Analysis of Current Data for Review
- Blank Data Collection Sheet (if applicable) Current Medication List
- House Policies (if applicable) Psychotropic PRN Protocol
- START/ Risk/ Mental Health Plan (if applicable) Psychotropic PRN Medication Order

(if applicable)

Restrictive Procedures (please check all that apply):

- Physical Intervention Mechanical Intervention/ Adaptive Equipment
- Chemical (PRN) Intervention Environmental Restrictions
- Use of Protective Clothing/equipment Other:

Summary of Circumstances:

I have reviewed this plan which was developed and/reviewed by all team members including guardian & agree with its submission for approval to the Human Rights Committee. Once approved by the HRC, I must have written informed consent by Guardian/Individual & Provider/Staff training must occur **prior** to the plan's implementation. This documentation must be held by the Vendor/Program and submitted to the Area Agency.

Plan Author Signature: _____ Date: _____

Printed Name: _____ Email Address: _____

Phone: _____

Program Administrator Signature: _____ Date: _____

Printed Name: _____ Email Address: _____ Phone: _____

Program Administrator Signature: _____ Date: _____

Printed Name: _____ Email Address: _____ Phone: _____

For Service Coordinator Only:

I have reviewed the completed approval request cover sheet, plan and support data. I am in agreement with the team that the plan submission is complete, is in the best interest of the individual and request that it be reviewed by the HRC.

Service Coordinator Signature: _____

Printed Name: _____

Date: _____

Individual's Name/Duck #: _____ **Level:** 1 2 3 N/A

HRC Decision:

Emergency Approval Until Next Available HRC Meeting

Approval Begins: _____

Approval Expires:

Temporary Approval With Follow Up Needed (See HRC comments and Provider Follow-up Required)

Approval Begins: _____

Approval Expires:

Full Approval

Approval Begins: Approval Expires: _____

Plan Termination Approved Date: _____

Not Approved Date: _____

Reason: _____

HRC Comments:

Provider Agency Follow-up Required:

Current Medication List Needed Current Plan Needed
 Blank Data Collection Sheet Needed Termination Criteria Needed
 HRC Approval Request Cover Sheet Needed
 Other Follow-up Needed- Describe Below:

By signing below, HRC confirms decision of the Committee Members (or designees).

Guardian/ Individual Approval Signature:

__Date:

References

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<http://www.csni.org/uniformity-of-practice-committee/> Form Revised 9/2016

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