

NURSING IN OMRDD

Registered Nursing Responsibilities
in Facilities certified by the
Office of Mental Retardation
And
Developmental Disabilities

Objectives

At the conclusion of this training, you will be able to:

Describe the role of the Registered Professional Nurse in facilities operated and/or certified by OMRDD

Define the difference between laws, regulations, alerts and guidelines

Identify laws and regulations pertinent to the practice of nursing in facilities operated and/or certified by OMRDD

Advocacy

With medical providers to ensure that the consumer receives appropriate care in a timely manner.

With other clinicians to ensure that clinical services are provided as needed.

With administrators as needed to ensure proper care.

*Nursing in OMRDD
How is it different?*

Registered Nurses in OMRDD, in general, provide little direct “hands on” care.

Role is to provide:

- Oversight of consumer’s health
- Advocacy with health care providers and others
- Supervision of direct care staff

Oversight of Consumer’s Health

Coordinate and monitor medical, nursing and clinic services

Monitor consumers for signs and symptoms:

- Acute illness
- Complications/exacerbations of chronic illness

Oversight of Consumer’s Health

Review of

- Medication regime
- Laboratory results
- Consults /doctor’s appointments

Ensure follow through on all doctor orders.

Monitor care when a consumer is admitted to the hospital, and participate in discharge planning.

Supervision of Direct Care Staff

Direct care staff provide the majority of care in OMRDD certified facilities, such as:

- Medication administration
- Diabetic care
- Colostomy care
- Wound Care
- Tube feedings (in some cases)

History – the Nurse Practice Act Exemption



§6908 of Education Law

“This article shall not be construed:

- b. As including services given by attendants in institutions under the jurisdiction of or subject to the visitation of the state department of mental hygiene if adequate medical and nursing supervision is provided.”

History – the Nurse Practice Act Exemption



- Written in 1938
- Consumers were all in developmental centers.
- There were RNs and MDs on site so supervision was not an issue.

History – the Nurse Practice Act Exemption

As consumers moved into the community it was unclear



- where the exemption applied and
- what constituted “adequate supervision”

History–How Did We Get Here?

- Meetings began between OMRDD and SED to determine the adequacy of supervision of direct care staff in community residential settings.



The Process

- OMRDD and SED had several meetings to discuss to discuss the development of a mutually agreed upon administrative directive (ADM) outlining nursing supervision of unlicensed staff.
- Preliminary agreement on the ADM reached in July of 2002
- Final agreement reached January 2003



Applicability

The ADM only applies to the supervision of direct care staff.





Applicability

- All certified community-based residences (ICFs, CRs, and IRA's) where two or more consumers receive services.
- This directive, and the provisions of §6908(1)(b) do not apply to non-certified residential settings.

Definition of Supervision

- An RN shall be responsible for the supervision of direct care staff in the performance of nursing tasks and activities:
 - Initial training of the task or activity
 - Periodic inspection of the actual act of accomplishing the task or activity.



Definition of Supervision

- Amount of supervision required to be determined by the RN and will depend on:
 - the complexity of the task;
 - the skill, experience and training of the staff; and
 - the health conditions and health status of the consumer.

Frequency of Visits



- At least once a week
- More often at the discretion of the RN responsible for the residence's supervision

Weekly Visits

“What am I supposed to do every week when I visit the residence?”

- Suggestions:
 - Review
 - ✓ the communication/shift change log
 - ✓ Staff notes
 - ✓ BM chart
 - ✓ Weight chart
 - ✓ Vital sign records
 - ✓ Intake and output records/diet records
 - ✓ Menses sheets
 - ✓ Seizure records

Weekly Visits

- Review medication administration records:
 - ✓ new orders are correctly transcribed and consumer specific medication sheet completed
 - ✓ meds are signed for
 - ✓ refused medications
 - ✓ PRN sheets
 - ✓ controlled drug sheets/count
- Review ALL reports from health care providers, labs, x-rays, etc.
 - ✓ Follow up on any abnormal results
 - ✓ Note any other follow up needed

Weekly Visits

- Nursing assessments of consumers as needed
- Observation of care/procedures
- Staff Training/in-services
- Instruction to staff (verbal or in communication book)



Professional Nursing Availability

- An RN must be available 24 hours/day 7 days a week.
- On site or immediately available by telephone (defined as responding within 30 minutes).
- RN will be called immediately for changes in medical/medication orders or for changes in a consumer's health status.

Plan of Nursing Services

- RN will develop an individualized plan of nursing services for any consumer who requires nursing care, including medication administration for a diagnosed medical condition.
- Plan is to be updated at least annually, and/or when there is a significant change in the consumer's health status

Plan of Nursing Services

- RN shall document that direct care staff have been educated regarding:
 - Health conditions of each consumer
 - Related health care needs of each consumer
- RN shall ensure that there is a consumer specific medication sheet for each medication that is administered.

Nursing Procedures

- It shall be the responsibility of the RN to determine:
 - which nursing procedures unlicensed direct care staff will be allowed to perform
 - which unlicensed staff will be allowed to perform them

Nursing Procedures

The RN must assess:

- complexity of the task;
- condition/stability of the consumer; and
- Training, skill and experience of the staff involved including relevant factors related to the individual's ability to safely provide nursing services.

Nursing Procedures

- The RN is to determine when delegation is safe or unsafe and/or not in the best interest of the consumer.
- In no case will an RN allow direct care staff to perform a nursing procedure that is outside the scope of practice of an LPN.

Training - RNs

RNs who do not have previous experience in the field of MR/DD nursing will be required to complete an orientation for registered nurses in MR/DD nursing within three months of being hired.

OMRDD to determine content of orientation training.

Training – Direct Care Staff

- RN to provide initial and on-going training in all nursing tasks and/or functions
- RN must periodically review the performance of direct care staff to ensure consistency with standards of care and training

Training – Direct Care Staff

- Medication administration, tube feeding and diabetic care shall be taught using a standardized curriculum approved by OMRDD.
- Staff separately certified for each of these activities.
- Recertified on an annual basis.

Training – Diabetic Care

Diabetic care will be taught by either:

A Certified Diabetic Educator (CDE). In those instances where the CDE is not a RN, the administration of insulin shall be taught by an RN;

OR

- An RN who has successfully completed an OMRDD approved train-the-trainer course to teach diabetes care to unlicensed direct care staff. Approval to teach diabetic care to unlicensed direct care staff shall be for a period of one year. Continued approval will be dependent upon completion of annual knowledge/skill maintenance training.

Clinical Evaluations

- RN shall conduct annual clinical performance evaluations for unlicensed direct care staff for nursing procedures including but are not limited to medication administration.
- The evaluation shall become part of the employee's annual performance evaluation.

Staffing Ratios

- **Maximum ratio: one full time RN to 50 consumers.**
- If an RN is the supervising nurse for the agency and also has responsibility for one or more residences, only that portion of her/his time that is devoted to the residences may be used in calculating the ratio.
- Some ratios will need to be significantly less based upon the need of the consumers.

Staffing Ratios

The following shall be considered when establishing an RN/consumer ratio for RNs assigned to provide nursing supervision in community based residences:

- the health status/stability of the consumers;
- the type of residential facility

Staffing Ratios - continued

- The actual number of direct care staff, both full and part time, who are to be trained and supervised;
- The actual number of Licensed Practice Nurses to be supervised;
- The number of certified residences involved,

Staffing Ratios - continued

- The geographic location of the residences
- The proximity of the residences to each other
- The proximity of the residences to health care providers; and
- The degree of additional nursing services provided by external nursing agencies

Staffing Ratios - continued

- Agency is to establish RN/consumer ratios that ensure consistently adequate registered nursing supervision
- Ratios must be re-evaluated within one week if there are significant changes
- RN assignments must be adjusted accordingly

Decisions in Health Care: A Matter of Consent



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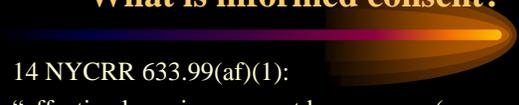
Objectives:

At the conclusion of this presentation, you will be able to :

Define informed consent

- ✓ List the elements of informed consent
- ✓ Identify situations that require informed consent
- ✓ List who can provide informed consent for an individual with mental retardation for major medical/dental procedures and for psychotropic medications
- ✓ List who can make end-of-life decisions for persons with mental retardation
- ✓ List the provisions of the Health Care Decisions Act

What is informed consent?



14 NYCRR 633.99(af)(1):
“effective knowing consent by a person (or his/her legally empowered surrogate, parent or adult child) with sufficient capacity to consent and so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion”

The Language of Informed Consent

Must be in the person's primary language

Must be in lay terms.



The Information of Informed Consent

Person giving consent must be told:

- ✓ Purpose of the intervention
- ✓ Benefits
- ✓ Risks (those that are reasonably foreseeable)
- ✓ Alternatives to the proposed intervention, if any
- ✓ Right to refuse
- ✓ Consequences of refusal

When do you need informed consent?

Sometimes informed consent is required by law. For example:

- ✓ HIV testing
- ✓ Immunizations pursuant to a non-patient specific order
- ✓ Research involving human subjects

When do you need informed consent?

14 NYCRR 633.11 requires informed consent for major medical treatment defined in 633.99 as any medical, dental, surgical or diagnostic interventions or procedures that:

- ✓ Require general anesthesia
- ✓ Have a significant invasion of bodily integrity
- ✓ Includes an incision
- ✓ Produces substantial pain, discomfort or debilitation
- ✓ Has a significant recovery period

When do you need informed consent

ICF Regulations 42 CFR 483.440(f)(3)(ii)

Informed consent for any program designed to decrease inappropriate behavior which include:

- ✓ Use of restraints;
- ✓ Adversive conditioning;
- ✓ Any medication that modifies or controls maladaptive or inappropriate behavior including for pre-sedation for medical and dental appointments;
- ✓ Denial of any right; "Earning" of a right as a way to shape behavior;
- ✓ Behavioral consequences involving issues of client dignity.

When do you need informed consent

July 2000 "Kietzman Memo"

Extended protections of 42 CFR 483.440(f)(3) to all individuals in OMRDD operated or licensed facilities.

When don't you need informed consent?

When, in the judgment of a physician,

- ✓ an emergency exists creating an immediate need for the administration of a medication

AND

- ✓ an attempt to secure informed consent would result in a delay that increased the risk to the person's life or health.

When don't you need informed consent?

In any situation that is considered a medical emergency.

Public Health Law §2504(4) defines an emergency as the person is in immediate need of medical attention and an attempt to secure consent would result in delay of treatment which would increase the risk to the person's life or health.

Who Can Decide?

The person making the decisions must:

- ✓ Have the ability to understand the information provided
- ✓ Be competent to make the decision at hand
- ✓ Be fully informed
- ✓ Give consent voluntarily without undue influence or duress.

Who Can Decide?

- It depends. . . .
- Different list of possible consenters for medical/dental consent than for consent for programs/drugs that are intended to modify behavior.

Who Can Decide (Medical/Dental under 18 years of age)?

For persons under the age of 18, the hierarchy in order:

1. The person (sometimes);
2. A guardian lawfully empowered to give such consent
3. An actively involved spouse
4. A parent;

Who Can Decide (Medical/Dental under 18 years of age)?

5. An actively involved adult sibling  
6. An actively involved adult family member
7. A local commissioner of Social Services with custody over the person 
8. A Surrogate Decision Making Committee 
9. A court of competent jurisdiction

Who Can Decide(Medical/Dental over 18 years of age)?

The hierarchy, for persons over the age of 18, in order:

1. The person (sometimes)
2. A Guardian of the person or a Health Care Proxy or alternate agent
3. An actively involved spouse
4. An actively involved parent
5. An actively involved adult child

NEW

Who Can Decide(Medical/Dental over 18 years of age)?

6. An actively involved adult sibling
7. An actively involved adult family member
8. The consumer advocacy board for Willowbrook class members it fully represents
9. A Surrogate Decision Making Committee
10. A court of competent jurisdiction

Who Can Decide (Medication that modify or control behavior)

For persons under the age of 18:

- The person (sometimes)
- A court-appointed guardian with the authority to give such consent
- An actively involved adult spouse
- An actively involved parent
- An actively involved adult family member
- A consent committee created pursuant to 14NYCRR 681.13(a)(10)
- A court of competent jurisdiction

Who Can Decide (Medications that Control or Modify Behavior)?

For a person over the age of 18:

- The person (sometimes)
- A court-appointed guardian with the authority to give such consent
- An actively involved spouse
- An actively involved adult child

Who Can Decide (Pre-sedation, Drugs That Modify Behavior)

- An actively involved parent
- An actively involved family member
- The Consumer Advisory Board for a Willowbrook class member that it actively represents
- A Consent committee created pursuant to 14 NYCRR 681.13(a)(10)
- A court of competent jurisdiction

Who Can Decide?

Must go down the list in the order listed.

If first available party on the list objects to the proposed treatment, cannot continue on down the list.

If there is an objection, and in the opinion of the medical provider the treatment is necessary, must petition the court for a court order.

The Person

The person must be:

1. Over the age of 18
2. Under the age of 18, either
 - a) married
 - b) the parent of a child

Evaluated as capable of consenting on his or her own.

Evaluation must be in writing, and documented in the person's clinical record.

Guardian

A guardian is a person or organization that is designated by the court to act on behalf of a person who cannot manage his/her affairs without assistance.

Guardians have the legal authority to make decisions on behalf of the individual.

“Standby” Guardian

A person or persons appointed by a legal guardian.

Assumes the legal authority to make decisions on behalf of a person when the legal guardian is no longer able to do so.

Who Can Be a Guardian?

Parents have priority.

Can be:

- Sibling
- Another family member
- A friend
- A qualified organization

Guardians

Legal guardian who has the authority to make health care decisions:

- Must be a guardian of the person
- Includes 17A guardians unless specifically excluded
- Includes Article 81 guardians only if it is specifically listed as a power of the guardian

Guardians

Can consent to:

- ✓ Medical/dental care
- ✓ Use of psychotropic medication
- ✓ Use of medication for pre-sedation
- ✓ End-of-life decisions for persons with MR

Health Care Agent

A person chosen by the individual to make decisions if and when the individual is determined to be incapable of making medical care decisions.

Has the legal authority to make treatment decisions.

Who Can Appoint a Health Care Agent?

Anyone over the age of 18 .

Does not need to have the capability of making and/or understanding all medical care decisions.

Person needs to understand that he/she is giving the authority to someone else to make medical care decisions if they are not able to.

Who can be a Health Care Agent?

Anyone over the age of 18.

In an OMRDD operated or certified facility, a health care agent **CANNOT** be:

- A member of the governing board
- Any officer
- A chief executive officer
- An employee of the facility
- A physician affiliate with the facility

How is a Health Care Agent Appointed?

A form called a Health Care Proxy must be signed and dated by the person in the presence of two adult witnesses.

Assistance can be given to the person in completing the form.

Another party can date and sign a health care proxy for the person if the person is unable to do so but asks the party to do so in the presence of two adult witnesses.

Who Can Witness a Health Care Proxy?

If the person resides in an OMRDD certified facility:

1. One person not affiliated with the facility
2. At least one NYS licensed MD or psychologist

Qualifications of MD or Psychologist

- ✓ Is employed by a DDSO; or
- ✓ Has been employed for at least 2 years in an OMRDD operated or certified facility; or
- ✓ Has specialized training and 2 years experience in serving persons with DD; or
- ✓ Has at least 3 years experience serving persons with DD

What Decisions Can the Health Care Agent Make?

Any and all health care decisions on the individual's behalf that the individual would make if he/she were able.

Examples:

- Artificial respiration
- Withholding or withdrawal of life support
- Admission to hospice
- DNR orders

When does the Health Care Agent's Authority Begin?

- When a determination is made that the individual lacks the capacity to make a health care decision.
- Determination of lack of capacity is to be made by the attending physician.
- If lack of capacity is because of a DD, attending physician must consult with an MD or licensed psychologist with MR/DD experience listed above.

What is a Surrogate Decision Making Committee (SDMC)?

Committees of trained volunteers that exercise medical decision-making authority on behalf of incompetent mentally disabled persons who lacked authorized family members or guardians.

SDMC Panels

Four-member panels that must include one member from each of the following groups:

1. MDs, nurses, psychologists or other health care professionals licensed in New York State
2. Former patients or parents, spouses, adult children, siblings or advocates of persons who are mentally disabled
3. Attorneys admitted to the practice of law in NYS
4. Other persons with recognized expertise or demonstrated interest in the care and treatment of persons with mental disabilities.

SDMC Jurisdiction

Major medical treatment defined as

“a medical, surgical or diagnostic intervention or procedure where a general anesthetic is used or which involves any significant risk or an significant invasion of bodily integrity require in an incision or producing substantial pain, discomfort, debilitation of having significant recovery period.”

SDMC Jurisdiction

Excluded Medical Treatments:

- ✓ Routine diagnosis or treatment
- ✓ Electroconvulsive Therapy
- ✓ Dental Care with a local anesthetic
- ✓ Emergencies
- ✓ Sterilization
- ✓ Termination of pregnancy
- ✓ Routine medication administration other than chemotherapy
- ✓ Medications that control or modify behavior

What is the Consumer Advisory Board (CAB)?

A group established by the Federal Court in the 1975 Consent Judgment to act in loco parentis for Willowbrook Class Members having no family, guardian or involved friends.

What is a Consent Committee?

ONLY used for consent for plans designed to manage inappropriate behavior which may include the use of medication.

ONLY used if a guardian or other party authorized to give consent is unavailable.

What is a Consent Committee?

Composed of at least 3 members.

Majority not employed by the agency

At least one QMRP

Cannot include anyone involved in the care and treatment of the individual whose plan is under review.

The Health Care Decisions Act

Law passed in 2002, became effective March 16, 2003.

Allows Article 17-A guardian of a person with mental retardation to have the authority to make all health care decisions including decisions to withhold or withdraw life-sustaining treatment if certain conditions are met.

The Health Care Decisions Act

Until the end of 2005, did not apply to persons who were developmentally disabled but not retarded.

Chapter 744 of the Laws of 2005 amended the Surrogate's Court Procedure Act (SCPA) § 1750-a and expands §1750-b to allow health care decisions to be made by the guardian of a developmentally disabled person who is not mentally retarded.

NEW CHANGES AS OF JAN 1, 2008

New law: Chapter 105 of the Laws of 2007

Enables certain qualified, non-guardian, family members with a significant and ongoing involvement in such a person's life to act as surrogates for the purposes of with-holding or with-drawing life supporting treatment.

**NEW CHANGES AS OF
JAN 1, 2008**

The decision to withhold or withdraw life-sustaining treatment may be made in accordance with SCPA section 1750-b by the following qualified family members in the order stated:

- (1) an actively involved spouse;
- (2) an actively involved parent;
- (3) an actively involved adult child;
- (4) an actively involved adult sibling;
- (5) An actively involved adult family member

**NEW CHANGES AS OF
JAN 1, 2008**

- Must go down the list in the order listed.
- If more than one qualified family member exists within a category on the list,
 - higher level of active involvement first
 - If equally actively involved, any one can make the decision
- If the first reasonably available and willing qualified family member makes a decision not to withhold or withdraw life-sustaining treatment, other family members cannot overturn the decision. However, they can object to such decision pursuant to SCPA section 1750-b(5)(ii).



SDMC : New in 2008

- New Law signed by the Governor July 7, 2008 (Chapter 262 of the Laws of 2008)
- Allows the SDMC to make a decision to withhold or withdraw life-sustaining treatment if not guardian or involved family member is available.
- Must abide by the provisions of the Health Care Decisions Act (HCDA)
- Effective January 7, 2009

The Health Care Decisions Act

A physician and a psychologist, or two physicians must determine whether the person with MR has the capacity to make health care decisions.

The Health Care Decisions Act

One of the two must be familiar with or have professional knowledge in the care and treatment of persons with MR defined as:

- Employed by the DDSO;
- Employed for a minimum of 2 years in an OMRDD certified facility; or
- Have specialized training or three years experience in treating MR and be approved by the Commissioner of OMRDD

The Health Care Decisions Act

The person must have one of the following:

- A terminal condition; or
- Permanent unconsciousness; or
- A medical condition other than MR which requires life-sustaining treatment, is irreversible and will continue indefinitely

The Health Care Decision Act

In addition, the MD must determine that the life-sustaining treatment would impose an extraordinary burden on the person in light of:

- The person's medical condition; and
- The expected outcome of the life-sustaining treatment.

Health Care Decisions Act

In addition, to withhold or withdraw artificially provided nutrition or hydration, one of the following criteria must be met:

1. There is no reasonable hope of maintaining life
2. The artificially provided nutrition or hydration poses an extraordinary burden on the person.

The Health Care Decisions Act: Decision on Life-sustaining Tx

Guardian must communicate the decision either orally or in writing.

If orally: to the attending physician in the presence of one other person over the age of 18

In writing: must be dated, signed and witnessed by a person over the age of 18 and sent/given to the attending physician.

Life-sustaining Tx Decisions: Notifications

Who has to be notified?

1. The person with MR
2. If living in a certified residence:
 1. the Executive Director of the agency operating the residential facility
 2. MHLS
3. If living at home: the commissioner of OMRDD or his/her designee

Life-sustaining Tx Decisions – Who Can Object?

1. The person
2. A parent or adult sibling who either resides with or has maintained substantial and continuous contact
3. The attending physician
4. Any other health care provider providing services to the person

Life-sustaining Tx Decisions – Who Can Object?

5. The Exec Director of the agency operating the person's residence
6. MHLS if the person lives in a certified residence
7. The Commissioner of OMRDD or his/her designee if the person lives at home

Life-sustaining Tx Decisions – Objections

Must be made within 48 hours of notification.

May be either orally or in writing.

Results in suspension of the guardian's decision until a court can review and decide.

What Should a Nurse Do?

!!PLAN!!

Know the ability of the consumers you care for to give consent.

For persons over 18 who cannot consent, educate the person and his/her family/advocates about Health Care Agents and legal guardians of the person.

What Should a Nurse Do?

Actively pursue the appointment of a Health Care Agent or guardian of the person **BEFORE** you need it.



Of Laws, Rules and Regulations



Laws

Laws: passed by both houses of the legislature and signed by the executive.



Regulations

Regulation: A governmental order having the force of law.

Regulations are proposed by state agencies, often pursuant to a law, and reviewed according to the process outlined in the State Administrative Procedures Act.

Administrative Directives

Often referred to as “ADMs”

Written by state agencies to address specific issues.

May interpret regulations or laws.

Do not go through the process established in the State Administrative Procedure Act.

Do not carry the weight of law.

Alerts and Guidelines

Alerts are periodically issued to “alert” agencies about potentially dangerous situations and how to avoid them.

Guidelines are occasionally issued by state agencies to provide advice and guidance to agencies regarding best practices.

What applies?

Some sections of the laws, rules and regulations of many state and federal agencies may apply:

| Federal | State |
|-------------------------------|-----------|
| Drug Enforcement | OMRDD |
| Narcotics and Dangerous Drugs | Health |
| Health and Human Services | Education |

NYS Regulations

- **GENERIC**
 - applies to all programs and services
 - Part 624
 - Part 633
 - Part 635
- **Program Specific**
 - applies to specific programs and services only

PART 624

REPORTABLE INCIDENTS

Applies to any facility certified or operated by OMRDD (including HCBS Waiver providers)

Sets forth the minimum requirements for the management of incidents and abuse allegation.

Defines three levels of incidents and prescribes procedures for the management of incidents.

Part 624

AGENCY REPORTABLE INCIDENTS

- The agency has the responsibility for defining what events or situations are to be reported.
- Based on consumer characteristics/needs, physical environment, program focus and needs.
- Must ensure the safety and welfare of all consumers.
- Incidents that are required to be reported, recorded and reviewed in conformance with each agency's policies and procedures.

Part 624
REPORTABLE INCIDENTS

Significant event or situation endangering a person's well-being, which are reported, investigated and reviewed within the agency.

Part 624
SERIOUS REPORTABLE INCIDENTS

Any reportable incident which because of its severity and/or sensitivity must be immediately reported to the DDSO and followed up in writing on form OMR 147 (I)

"Immediately" is generally interpreted as reporting within 90 minutes of discovery.

Part 624
INJURY (REPORTABLE)

➤ Any suspected or confirmed harm, hurt, or damage to a person receiving services caused by the act of another.

➤ May be intentional or by accident.

➤ Results in a person requiring medical or dental treatment by a physician, dentist, PA or NP.

➤ Treatment is more than first aid.

PART 624
INJURY (SERIOUS REPORTABLE)

Any injury which results in the admission of a person to a hospital or 24-hour infirmary for treatment or observation because of an injury.

Part 624
MISSING PERSONS

Unexpected or unauthorized absence of a person for whom formal search procedures have been initiated.

Always a serious reportable incident

PART 624
DEATH

Reportable Incident: all loss of life, regardless of cause. Must be reported to both OMRDD and to the Commission on Quality of Care (CQC)

Serious Reportable Incident:

- ✓ homicide or suicide
- ✓ unexplained death
- ✓ accidental death
- ✓ treatment not in accordance with accepted medical standards

**PART 624
RESTRAINT**

Act of limiting or controlling a person's behavior through the use of any device which:

- ✓ prevents free movement of both arms or both legs
- ✓ totally immobilizes a person
- ✓ is ordered for the express purpose of controlling behavior in an emergency
- ✓ is any medication which renders a person unable to satisfactorily participate in programming, leisure, or other activities

Always a serious reportable incident

**Part 624
MEDICATION ERROR**

Reportable incident: any medication error that results in marked adverse effects or a person's health or welfare is in jeopardy.

Serious reportable incident: any medication error which results in the admission of a person to a hospital or 24-hour infirmary for treatment or observation.

**Part 624
Possible Criminal Act**

Actions by persons receiving services which are or appear to be a crime under New York State or Federal law.

Always a serious reportable incident.

PART 624
SENSITIVE SITUATIONS

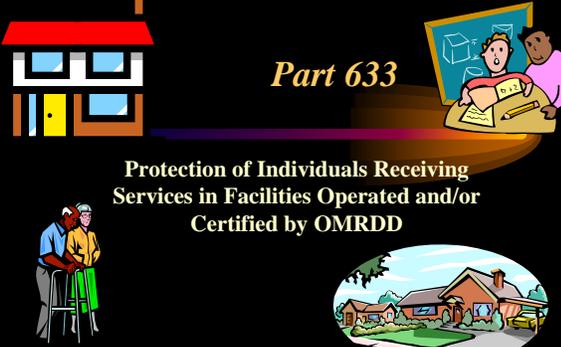
Reportable Incidents: situations involving a consumer which are of a delicate nature to the agency.

Serious Reportable Incidents: sensitive situations which, in the judgment of the chief executive officer, need to be brought to the attention of OMRDD.

PART 624
ABUSE

Maltreatment or mishandling of a consumer which endangers his/her physical or emotional well-being

- ✓ physical abuse
- ✓ sexual abuse
- ✓ psychological abuse
- ✓ seclusion
- ✓ unauthorized or inappropriate use of: restraint
 - ✓ aversive conditioning
 - ✓ time out
- ✓ violation of a person's civil rights
- ✓ mistreatment
- ✓ neglect



Part 633

Protection of Individuals Receiving Services in Facilities Operated and/or Certified by OMRDD

633.4

Rights of person receiving services

- Part 633.4 lists 26 rights for persons receiving services. Those of particular import to nurses include:

No person shall be denied:

- Safe and sanitary environment;
- Freedom from physical or psychological abuse
- Freedom from corporal punishment
- Freedom from unnecessary use of mechanical restraining devices
- Freedom from unnecessary or excessive medication
- Confidentiality of information

633.4 con't

- A written plan of services
- Services from staff who are appropriately trained
- Appropriate and human health care
- Input into the choice of physician(s) and dentists
- Opportunity to obtain a second opinion
- Access to clinically sound sexuality training
- Access to family planning service and information
- Participate in a religion of the person's choice
- Freedom from discrimination based on HIV status

633.4 con't

- Information prior to admission regarding the supplies and services that a facility will provide, including any additional charges
- A balanced and nutrition diet, served at appropriate times and in as normal a manner as possible, which is not altered or denied for behavior management or disciplinary purposes
- Opportunity to make an informed decision regarding CPR
- Opportunity to create a health care proxy This also includes ensuring that the health care proxy is appointed voluntarily and that the health care proxy becomes part of the clinical record

633.4 con't

- Communication needs of non-English speaking individuals receiving services
 - Cannot deny access based on language used
 - Information must be provided in appropriate language
 - Interpreters are provided in a timely manner without charge to the person or his/her family.
 - Non-English speaking includes persons who are deaf or hard-of-hearing

633.5

Applicant backgrounds

- Criminal background checks (fingerprinting) of anyone who will have regular and substantial unsupervised or unrestricted physical contact with people receiving services
- Child abuse registry check if having contact with children

633.6

Supervisory requirements

- Line and onsite supervisors must be identified to staff
- Supervisory responsibilities must be clear
- Periodic supervisory consultation with employees and volunteers
- Designate the method of evaluation managerial and supervisory skills of supervisors
- provide appropriate assistance to supervisors whose eval indicates need for improvement

633.7

Conduct of Staff and Volunteers

- No alcohol or illegal substances while at work
- Shall not come to work if their ability is impaired

No personal financial transactions between staff or volunteers and individuals receiving services

Part 633.8

• *Staff Training*

- Employees and volunteers must receive training in the first 3 months of employment
 - Principles of human growth and development
 - Characteristics of persons served
 - Abuse prevention
 - Incident reporting and processing
 - The facility's safety and security procedures
 - Other topics specified by the agency

633.9

Allegation of Abuse

- Each situation shall be evaluated immediately,
- If an allegation of child abuse it must be reported to the New York State Child Abuse Registry
- If it appears that a crime may have been committed against a person receiving services, irrespective of who the perpetrator is, shall be reported to law enforcement officials.

PART 633.10
CARE AND TREATMENT

Consumers shall receive care and treatment that is suited to his or her needs which is delivered skillfully, safely and humanely

Notification of parent, guardian or correspondent if the person is suspected or diagnosed as having a health problem which requires:

- emergency room services
- admission to a hospital or
- if the person cannot participate in regular activities for seven days

Part 633.10

Written plan to deal with life threatening emergencies

Must address:

- First aid
- CPR
- Access to emergency medical services

Inspection and maintenance of emergency medical equipment in conformance with the manufacturers' recommendations is required

633.10 con't

Incorporates the requirements of the Health Care Decisions Act (HCDA) related to how physicians and psychologists are approved by the commissioner to serve as the attending physician, or a consulting physician or psychologist for decisions about withholding or withdrawing life-sustaining treatment.

*PART 633.11
MEDICAL TREATMENT*

- Consent for professional medical treatment
- Informed consent
- Sterilization
- Consent for HIV Testing
- N/G tube feedings
- Requires day programs to notify residential providers of emergencies or sudden illnesses.

*633.12
Objection to services process*

- Requires a mechanism for informal despite resolution
- Ability to submit a formal written objection that results in a hearing
- May appeal decision of hearing officer to the Commissioner
- Treatment may be given despite objection when the treatment is deemed necessary to avoid serious harm to life or limb, except if informed consent is needed/



Part 633.17

- **Medication**
 - All medications must be stored, administered and disposed of safely.
 - Medication must be prescribed by a Physician, RPA, Nurse Practitioner or Dentist.
 - Semi-annual medication regimen review required.
 - Annual evaluation of ability to self-administer medications required.
 - AMAP: Approved Medication Administration Personnel
 - RN supervision required

055.17
OTC meds

- Approval must be received at least once a year
- Reason for OTC is stated
- Administration does not exceed two days unless a prescriber has ordered on a regular or routine basis

633.17
Who Can Administer Medications?

- The person themselves if they have been assessed to be capable of self-medication administration
- Licensed nurses, physicians, PAs, dentists
- Approved Medication Administration Personnel (AMAPs)
- Family members
- Family care providers and approved respite providers

633.99
Independent Self-Administration

Independent self-administration has 6 requirements, including the ability to:

- ✓ Recognize the time the med is to be taken
- ✓ Recognize the correct medication
- ✓ Open the container (in the case of a med organizer, open the correct compartment)
- ✓ Remove the correct dose (in the case of a med organizer, to remove the medication)
- ✓ Close the container
- ✓ Obtain appropriate fluids or material needed to administer
- ✓ Return the meds to the appropriate storage

Self administration vs. Self-management

Self administration is a rote skill/task.

Self management includes an ability to know:

- the name of the medication
- the purpose of each medication
- possible side effects
- possible interactions/contraindications
- what things to report to the nurse/doctor
- how to maintain a supply of medication

633.17 Medication regime review

- Required on a semi-annual basis
- May be completed by an MD, pharmacist or RN
- Must include:
 - All of the medication a person has taken during the review period, including short-term and/or discontinued medication
 - Review of the reason/purpose the medication is being given.

Medication regime review con't

- Review contraindications and interactions, including those created by simultaneous administration of medications
- Review of laboratory results as they relate to medications being taken
- An evaluation of the effectiveness of each medication
- Recommendations are to be made to the prescriber as appropriate.



Medication Storage 633.17 (a) (19)

- (i) Medication shall be maintained in original container(s)
- (ii) Safe, secure, appropriate, and adequate storage space shall be provided
 - locked/double locked storage as appropriate
 - cabinet of “substantial construction”
 - medication shall never be left unattended

Medication Storage con't

- Outdated medication shall not be kept by a facility.
- Discontinued medication may not be kept by a facility unless a prescribing practitioner has specifically instructed that it be retained for possible future use.

Medication storage exception

Pill Organizer (also known as a med bar or pill minder) can be used for:

1. A person who self administers medication
2. A person who is on a training program to learn to self administer medication

Pill organizer must be labeled with the person's name.

*633.18
DNRs*

- Anyone assumed to want CPR unless there is consent to a DNR
- Delineates who can issue a DNR
- Delineates who can witness a DNR

Part 633.19

- **HIV Confidentiality and Protective Measures**
 - Facility must have policies and procedures
 - confidentiality
 - to prevent transmission
 - for management of potential exposure
 - no discrimination
 - Employees and volunteers are trained in:
 - confidentiality
 - procedures to prevent transmission
 - procedures to manage a person who is exposed

*633.20
Health Care Proxy*

- Established the authority for a person with developmental disabilities to appoint a health care proxy
- Delineates who may be a health care proxy
- Gives qualifications for witnesses
- Delineates the rights and duties of a health care proxy



Part 635
General Quality Control and
Administrative Requirements
Applicable to Programs, Services,
or Facilities Funded or Certified by
OMRDD

Part 635-8.2
Procedures to Control TB

- Providers must have TB control plan
 - Training of employees
 - Ensure testing of employees and consumers
 - Maintenance of documentation
 - Isolation practices
 - Employee work restrictions
 - Reporting of suspected or confirmed cases



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