



CLIENT RIGHTS

Alberta Professional Services



Human rights are not a privilege conferred by government. They are every human being's entitlement by virtue of his humanity.

— *Mother Teresa* —



THE LAW

NORTH CAROLINA
General
Statute
122C



The Law ~ G.S. 122C

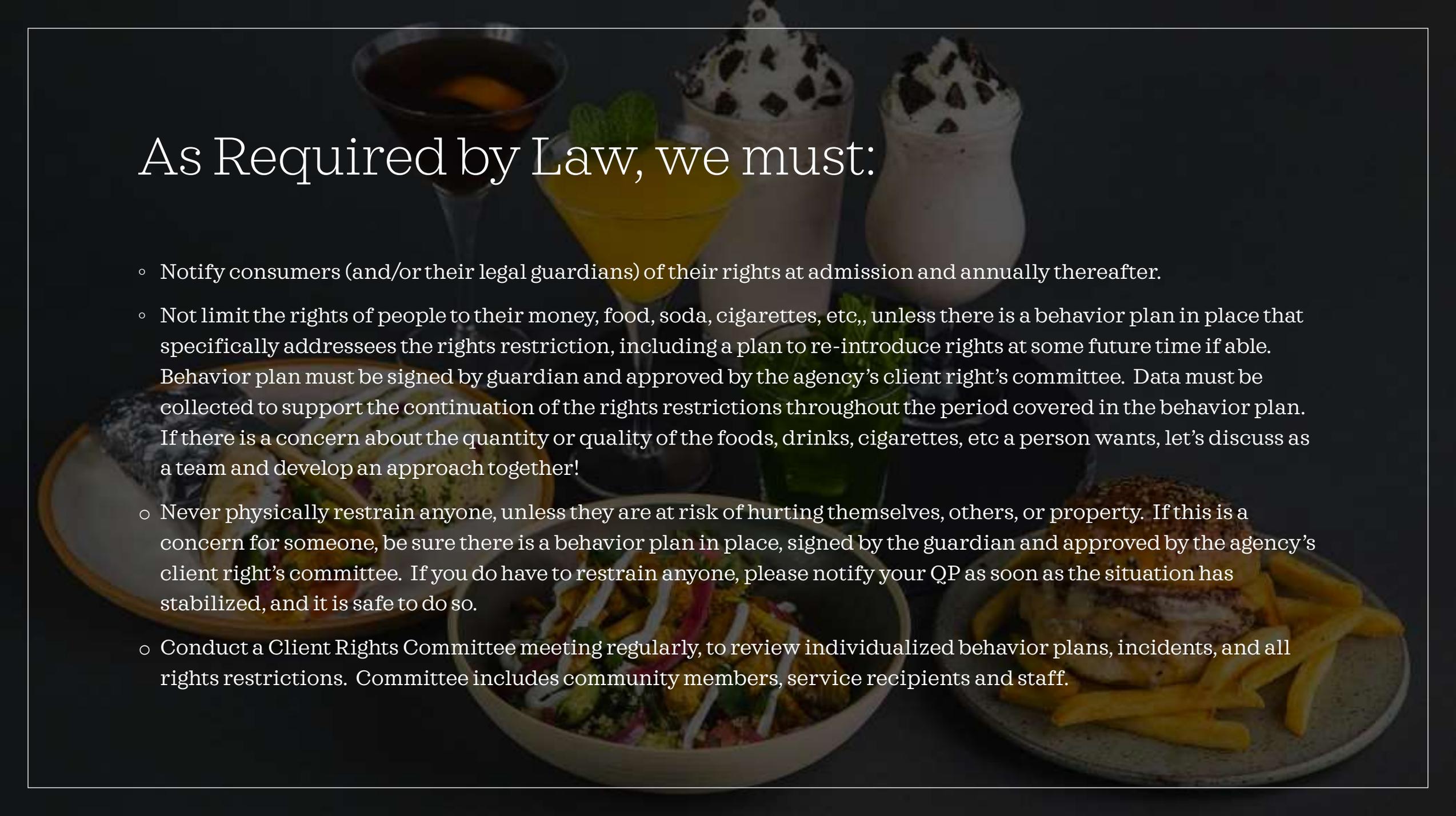


The state of North Carolina requires the protection of basic human rights for everyone served by each agency, including the rights to:

- Dignity
- Privacy
- Humane Care
- Freedom from mental and physical abuse, neglect and exploitation

As well as the right to:

- Treatment including access to medical care and habilitation
- An individualized written treatment plan to maximize the development or restoration of the person's capabilities



As Required by Law, we must:

- Notify consumers (and/or their legal guardians) of their rights at admission and annually thereafter.
- Not limit the rights of people to their money, food, soda, cigarettes, etc., unless there is a behavior plan in place that specifically addresses the rights restriction, including a plan to re-introduce rights at some future time if able. Behavior plan must be signed by guardian and approved by the agency's client right's committee. Data must be collected to support the continuation of the rights restrictions throughout the period covered in the behavior plan. If there is a concern about the quantity or quality of the foods, drinks, cigarettes, etc a person wants, let's discuss as a team and develop an approach together!
- Never physically restrain anyone, unless they are at risk of hurting themselves, others, or property. If this is a concern for someone, be sure there is a behavior plan in place, signed by the guardian and approved by the agency's client right's committee. If you do have to restrain anyone, please notify your QP as soon as the situation has stabilized, and it is safe to do so.
- Conduct a Client Rights Committee meeting regularly, to review individualized behavior plans, incidents, and all rights restrictions. Committee includes community members, service recipients and staff.

Upon admission to services, APS provides the following (and reviewed annually thereafter):

- Brochures from Disability Rights NC “**Do You Know Your Rights**” and/or “**Kids with Disabilities Have Rights too**”
- The APS “**My Rights**” Handbook
- A copy of the **Program Specific Handbook**, which explains rules and responsibilities of specific programs
- A copy of the agency’s **Privacy Practices**, which are in place to protect confidentiality
- Advisement that they may request access to their treatment plan at any time
- **Fee policy, Client Grievance Policy, Suspension and Expulsion Policy, Search and Seizure Policy, and Restrictive Intervention Policy**
- **For Residential Services**, these additional items are also included: **Client Funds in Residential Settings; Protection and Storage of Client’s Possessions;** and Disability Rights NC brochure “**What Are My Rights in a 24-hour Facility**”
- If you are interested, please ask your supervisor for a copy of any of these items.

Informed Consent

- People have the right to know what they are agreeing to, according to their own language and communication skills.
- They have the right to ask questions any time about this information.

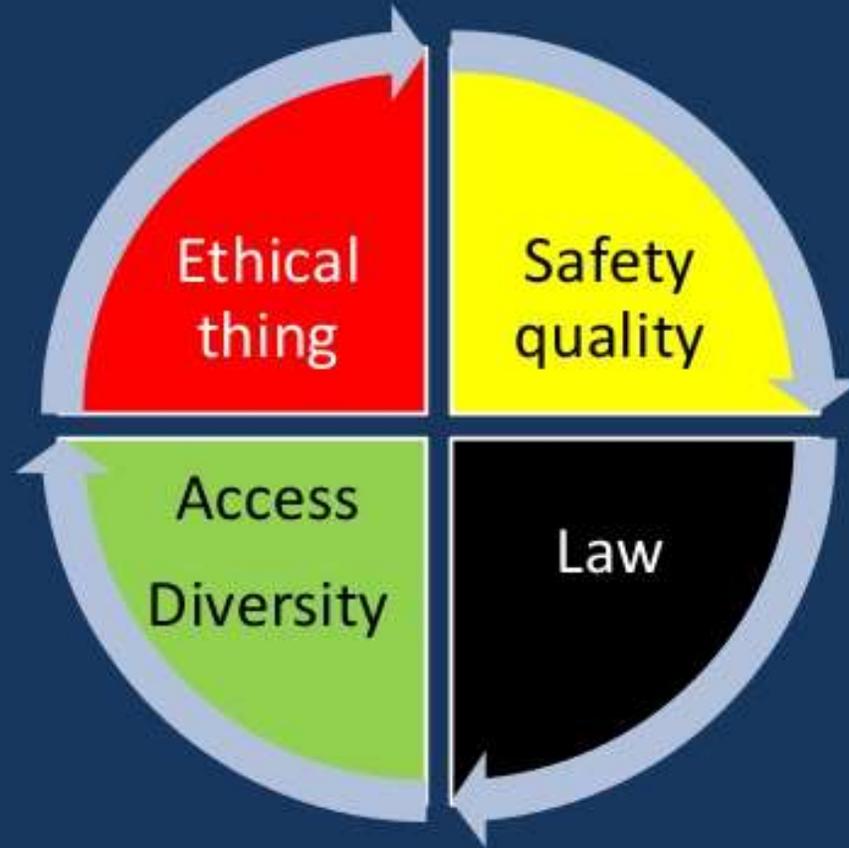
Key aspects of informed consent





Why Do We Need Informed Consent?

The Short Answer





WILL ROGERS

**Never miss a
good chance
to shut up!**

RIGHT TO CONFIDENTIALITY

Do Not Share Protected Information:

- Name, address, phone number
- Date of birth
- Photos and video
- Any identifying information
- Diagnoses, services
- Family information
- Initials and record number
- To be safe: All information should be protected!



Violation of Confidentiality Consequences

- Class 3 Misdemeanor punishable by up to \$500 fine on the staff person (not the agency)
- Termination from employment with the agency

Is there
permission to
share
information?

- The QP can (and should) develop an Authorization to Disclose to /from any entity—a volunteer site, an employer, a church community, or any other regular setting the person prefers, etc. Just let us know!

About Authorizations to Disclose Information

- Specific to the person (client)
- Specific to Recipient (who gets or can give the information)
- Specific and limited to the stated information disclosed (what exactly can be shared)
- Specific to the purpose for such disclosure (why)
- Must be signed and dated by the person or their guardian
- Expires after one year, unless it is rescinded by the person or guardian before that
- Can be revoked at any time by the person or guardian

BE ESPECIALLY
CAREFUL NOT
TO DISCLOSE
INFORMATION
WHILE IN THE
COMMUNITY



Challenging Situations

- If you are with other professionals who are speaking loudly about private information in public—remind them firmly of confidentiality rules and consider removing yourself from the conversation in order to protect yourself. Seek guidance from your supervisor if co-worker/s need additional training
- If you are supporting someone in a public location, refer to the client with a neutral term, like “friend”.
- If a community member asks you about the person you are supporting, you can provide vague information about the agency or your position. If they ask specific questions about the person, let them know that information is private. Again, the simplest and kindest response is just to say the person is your friend.
- If a community member wants to tell you about their own situations, you can listen if you don’t disclose information about any agency consumers, past or present. Feel free to refer people to our agency, if appropriate.
- If you must protect a person with a physical intervention or restraint in public, answer questions and concerns with the name of your QP, agency phone number, etc, and (if able) explain that you are trying to keep the person safe.
- If a professional from another LME (care coordinator) comes into our building, do not disclose information about any other client than the one they are there to see. There may not be permission to share information with another LME
- Other challenging situations? Ask your QP for guidance

The Only Exceptions



- The only times we may be able to share information without signed permission:
 - Subpoena or other compelling court document
 - Applying for involuntary commitment
 - Medical emergency
 - Allegations of neglect, abuse or exploitation (Reminder: we are obligated to report **ALL** allegations to the authorities)

When in doubt, ask your QP for guidance!



Confidentiality is the
essence of being trusted.

Billy Graham

“Confidentiality”



The Right to Self-determination

- The individuals we support have the right to make their own choices, even if there is risk involved. All humans have the right to experience the “dignity of risk”. We can and should provide information to help make a choice, but our clients ultimately should be able to make their own choices. Making our own choices give us confidence and builds self-esteem. Making choices is a basic human right.
- Examples:
 - Live as independently as possible
 - Work in the setting of their choice
 - Love someone in a romantic and intimate way
 - Play and recreate in their own preferred activities

A Story about Flo

- “Flo” was a 58-year-old woman with Down’s Syndrome and a mild level of intellectual disability, along with significant psychiatric impairment, as well as many medical problems. She had lived with her family all her life, except when she was institutionalized for different time periods. As a vulnerable person, she was abused periodically throughout her life by paid staff and family members. When her elderly mother died, family was ready for her to move in with them. She demanded that I (her case manager) find her an apartment. I continually told her all the reasons why it wasn’t a good idea, given her impairments, hygiene issues, extensive medication lists, safety concerns, etc. She insisted and eventually I realized I had to support her. I helped her apply for a Greensboro Housing Authority’s apartment building for the elderly or disabled. We found supports and services to help her in many of her areas of need. Her apartment wasn’t maintained well—filled with stuff and somewhat unclean, but livable to her standards. She made friends and kept herself busy, even managed to wear down her doctor who got her a motorized scooter so she could “drive” to the grocery store. After a few years, she had to leave that home, but she showed me the importance and benefits of self-determination. I had never believed she was capable, until I saw she was.



Home and Community Based Services (HCBS)

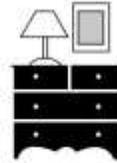
- History: The Americans with Disabilities Act of 1990 (or ADA) is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else. (ADA National Network)
- In 1990, the federal government mandated that the states develop their own protections for individuals with intellectual disabilities in residential and facility-based services. Over two decades later, North Carolina invoked HCBS. Every facility in the state must submit an assessment to prove that it meets the characteristics of the law. Alberta Professional Services has submitted assessments and been approved for every AFL site we support, as well as all our day programs



Send and get unopened mail



Have access to and spend a reasonable amount of money



Wear your own clothes and have your own belongings



Eat healthy food

Have privacy



Worship



Use the telephone



Have visitors



Vote



Go outside

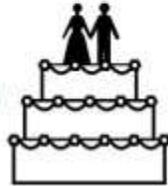
Enjoy social activities



Receive treatment and services



Get married



Be free from abuse

YOU HAVE THE RIGHT TO..

HOME AND
COMMUNITY BASED
SERVICES
CHARACTERISTICS
(CONTINUED)

**LIFE IS A MATTER OF CHOICES,
AND EVERY CHOICE YOU MAKE MAKES YOU.**
JOHN C. MAXWELL

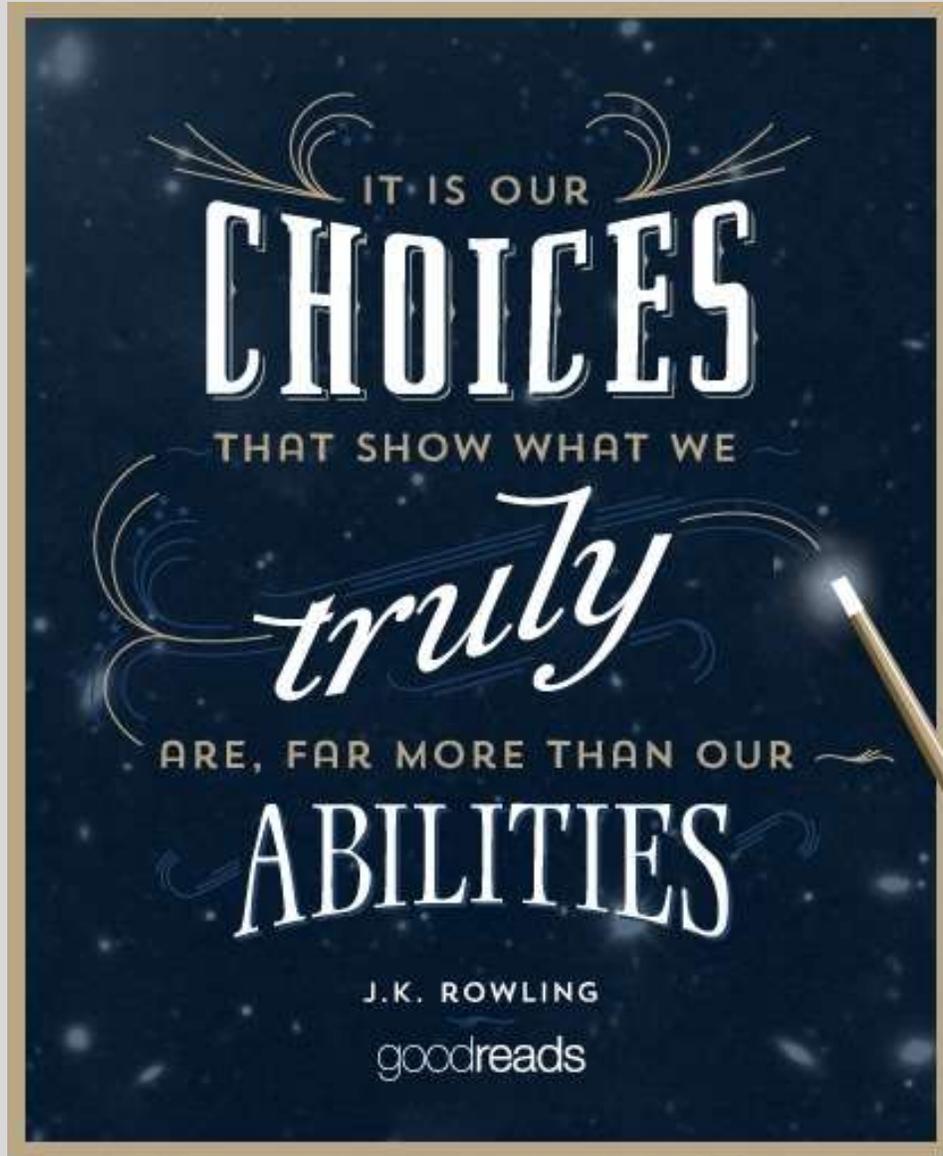
SUCCESS.com

Home and Community Based Services Characteristics—It's all about Choice!

- **Integration**—people are active in their communities, have transportation available to engage in their preferred community activities, and have the chance to interact with people who aren't paid to work with them.
- **Choice of where to live, work and play**—People are offered a variety of choices regularly in these areas.
- **Right to privacy, dignity and respect**—people are free to make their own choices; they can talk on the phone, read mail and visit with others privately, even in their own bedrooms. They have the right to refuse medication (there is a process we follow should they decide to do so). They have the right to receive education about their choices, risks and benefits.
- **Making Life Choices**—people can choose their friends, food, religion, who to vote for, where they sit in the car (i.e., front seat); people can choose their schedules and daily / weekly activities, including when they go to sleep and when they wake up; **people have the same degree of choice as everyone else**
- **Choice of businesses and staff**—People can choose which barber, grocery store, bank, etc; People can meet staff before they are selected

Continued HCBS Characteristics:

- **Home and Work Space**—People have full access to their homes and work areas; they can easily get around their home and work areas, they can ask for changes to their home and work areas to better meet their needs
- **Privacy**—People have privacy in their sleeping and living areas; they can close and lock their bedroom doors
- **Housing Rights**—People have the same rights and responsibilities as any other renter or homeowner; people have the right to know what may lead to their discharge or eviction
- **Keys**—People have a key to the home, or there is a plan in place for them to learn how to use one
- **Roommates**—People get a choice in housemates/roommates
- **Home Décor**- People can arrange their furniture and decorate their bedroom and living areas as they like
- **Visitors**—People can choose who visits and who they can visit, interact with friends of their choosing, help create house rules about visitation
- **Individual Plans**—People's plans include any necessary supports to make sure the person is safe



IT IS OUR

CHOICES

THAT SHOW WHAT WE

truly

ARE, FAR MORE THAN OUR

ABILITIES

J.K. ROWLING

goodreads

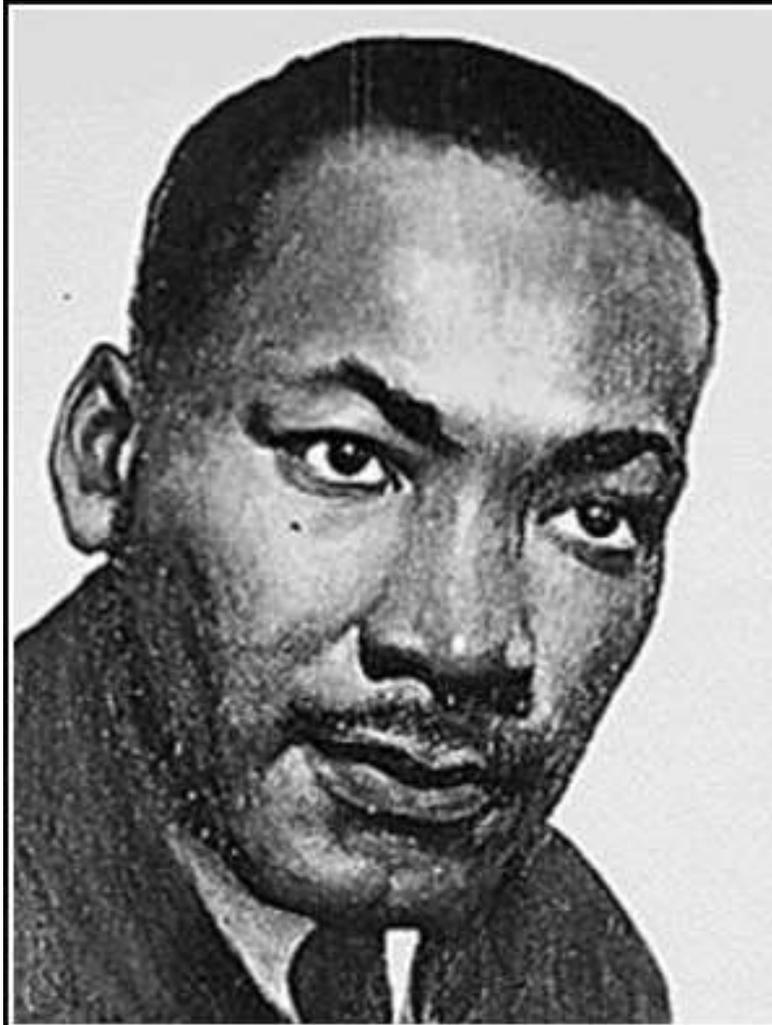
Guardianship: It's Complicated

- Upon turning 18, all people have the same rights to make all personal decisions for themselves.
- A person must be “adjudicated incompetent” by a court of law in order to have a guardian. A parent cannot just claim to be a guardian without a court order. We keep copies of the court order in the medical record.
- There are different kinds of guardianship. Most of our guardians are “Guardian of the Person”, which means they can make all decisions for the person, at least in theory. Recently, more courts are granting “Limited Guardianship”, so that the person can still make choices in some areas. The court may decide that the person only needs help in specific areas, such as medical and residential decisions. Please be sure you understand the legal status of the person you are supporting by asking the QP involved.
- Whether a guardian or “just” a parent, that person often wields a lot of power over the person’s ability to make their own choices. It is important to know that even if a person has been adjudicated incompetent, they may still vote in North Carolina elections, marry, make their own will and other legal contracts, and drive a car.
- Whatever competency status of the person, APS encourages as much autonomy (ability to make choices) for the person as possible. We continue to educate guardians and parents of the limitations of their powers and the benefits of autonomy. For example, a guardian cannot tell us to “take away the person’s phone” (or take away anything) as a result of behavior, without a written behavior plan. However, if the guardian purchased the phone and pays for the monthly charge, it is their phone, in a sense. Every guardian handles their responsibility differently,
- Once a person is adjudicated incompetent, they can be “restored to competency” through a court trial with a jury.

“ To deny
people their
human rights is
to challenge their
very humanity.

Nelson Mandela

thepeopleproject.com



Make a career of humanity. Commit yourself to the noble struggle for equal rights. You will make a greater person of yourself, a greater nation of your country, and a finer world to live in.

— *Martin Luther King* —

AZ QUOTES