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Title:
Person-Centered Care on a Senior Legal Hotline

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Person-centered care is required for elderly services. The concept stresses individual autonomy. Advocates working with seniors should be aware of these concepts in providing legal advice. This workshop will educate advocates on the concepts of person-centered care, and apply those concepts to legal advice provided on a telephone hotline.
Draft Principles for a Person-Centered Approach to Serious or Advanced Illness

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Administration for Community Living
U.S. Department of Health and Human Services
Washington, D.C. 20201
Draft Principles for a Person-Centered Approach to Serious or Advanced Illness

1. People should receive full information about their health, conditions, disabilities, available services, and about how to live successfully regardless of these factors.

2. Principles related to planning and decision-making:
   - Person-centered planning principles and practices should guide health and long-term services and supports (LTSS) planning and provision.
   - Decision-making and advance planning should occur as early in the disease process as possible, especially for people with progressive illnesses like dementia or ALS, which can make clear expression of choices increasingly difficult during the course of the illness.
   - All parties should presume that people with real or perceived cognitive, communication, or intellectual disabilities are able to make decisions.
   - Supported decision-making principles and practices should guide those who are helping individuals who need assistance with planning and decision-making. Individual goals, decisions, and known views should take priority.
   - People have a responsibility to document and communicate with loved ones and health and LTSS providers about their goals and decisions. All parties should respect these goals and decisions. Since circumstances may change over time, there should be regular opportunities to update planning and communicate goals and decisions.

3. Discrimination based on “age, race, sex, disability, color, national origin,”¹ or number and type of conditions a person has should not occur during planning for or treatment of serious or advanced illness.

4. Individuals need access to services that enable them to manage their conditions and symptoms, live in the setting of their choice, and be integrated into the community. Spiritual care providers can be critical to community integration.

5. Individuals should have access to palliative care (which provides symptom relief and comfort) throughout a serious illness, not just when they are dying. Access to hospice, which uses palliative care principles, is critical during the dying process.

6. Individuals should have access to advocacy services to assist them in resolving problems with services or benefits or when their choices are not honored.

7. Health and LTSS providers, including both paid and family caregivers, need education about health conditions and disabilities, living well with advanced age and/or disability, and evidence-based information and training about how to help individuals with serious or advanced illness.

¹ These are anti-discrimination terms in federal law. Please see Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. 2000d et seq. (race, color, national origin), Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq. (sex), the Age Discrimination Act of 1975 (Age Act), 42 U.S.C. 6101 et seq. (age), or Section 504 of the Rehabilitation Act of 1973 (Section 504), 29 U.S.C. 794 (disability).
8. Family caregivers need services like one care coordinator they can rely on, access to a 24/7 helpline, respite, and grief counseling.

9. Health and LTSS providers should be encouraged to include older persons and individuals with disabilities on their boards and committees, particularly ethics committees.
PERSON-CENTERED CARE ON A SENIOR LEGAL HOTLINE

I. Introduction – Need for common language, both to facilitate our discussion and for use when borrowing concepts from other professions. Also, important because addressing the needs of vulnerable seniors often benefits from a collaborative approach which involves other, non-lawyer, professionals.

A. Legal Hotline:
A legal hotline is a service designed to provide tailored legal advice and information by telephone at the time an eligible client contacts the program or by appointment soon thereafter. This definition includes programs that provide answers to clients’ legal questions, analysis of their legal problems, and advice on solving those problems. Hotlines may perform brief services such as making phone calls, writing letters or preparing documents on behalf of clients. Hotlines may also provide referrals to other programs or serve as the intake mechanism for a full service/program.

Hotline advocates may be attorneys, paralegals or law students, working under an attorney’s direct supervision. "Hotline advocate" and "hotline attorney" are used interchangeably to refer to these persons. Our definition includes programs that may not call themselves "hotlines" so long as they have a system for providing telephone legal advice.

The focus today is on Hotlines which serve seniors 60 years of age and older. It is our belief that those who work on Senior Hotlines or who are in the process of designing a delivery mechanism specifically for seniors will find the medical/social concept of “person-centered care” to be both relevant and valuable to a successful Hotline model.

B. What is Person-Centered Care?

According to The American Geriatric Society Journal,

“Person-centered care” means that individuals’ values and preferences are elicited and, once expressed, guide all aspects of their health care, supporting their realistic health and life goals. Person-centered care is achieved through a dynamic relationship among individuals, others who are important to them, and all relevant providers. This collaboration informs decision-making to the extent that the individual desires.”
In other words, “person-centered care” considers the issue – whether it is medical, social or legal – from the perspective of the client.

The Administration for Community Living recently released some draft principles for a person-centered approach to serious or advanced illness. Some of these principles seem especially relevant to the delivery of legal services to seniors. [Attach ACL Draft Principles].

II. Applying ACL “draft principles” to a Senior Legal Helpline – A Translation From “Medicalese to Legalspeak, which begins by substituting the word “Client” for the word “Person” – ie, “CLIENT- Centered Care.”

1. Assume the Client is capable of communicating effectively with the advocate and facilitate communication as appropriate (Longer appointment times, scheduled at a time when Client is most alert; access to technology for the hearing impaired and/or interpreters for those whose English-speaking ability may be limited especially when stressed).

   Remember the ethical mandate that when counseling a client with diminished capacity, an attorney must make every effort to maintain a normal attorney-client relationship.

2. Ascertain the Client’s goal(s) in seeking advice. Be prepared to LISTEN, as the Client is more likely to articulate a “problem” than a “goal.” Once the problem AND the goal have been identified, tailor the advice toward achievement of that goal or offer possible alternative solutions.

3. Provide full information to the Client. Although it is advisable to provide advice in simple understandable language, do not “dumb down” advice by leaving out critical information. Do not omit negative consequences in an attempt to avoid upsetting the Client or avoid presenting too much information. Tailor the delivery of the information, if necessary, not the substance.

4. Determine a protocol for the involvement of third parties in the conversation, and understand the implications for attorney-client privilege. Distinguish “privilege” from “confidentiality” when designing program policies.

5. Be especially mindful of the person-centered focus when speaking to a Client through an Agent with a Durable Power of Attorney.

6. Be knowledgeable about non-legal professionals who may provide relevant services or help Client achieve the goal and be prepared to give Client contact information with an honest discussion of benefits.
7. Respect the autonomy of the Client. As in any attorney-client relationship, the attorney provides options. The Client makes the ultimate decision. Avoid judging the wisdom of the Client’s decision, acknowledging that the values and preferences which drive that decision may be different than yours.

8. Always discuss advance planning tools, such as power of attorney documents, even when the legal issue does not involve questions about advance planning. Explain how these tools would allow future decisions to be made by a decision-maker of Client’s choice, with an honest discussion of risks as well as benefits.

REFERENCES


*Send your comments on the Draft Principles to [AdvancedIllness@acl.hhs.gov](mailto:AdvancedIllness@acl.hhs.gov) by May 12, 2017.*

ABOUT THE PRESENTERS:

*Ellen Cheek* has been a full-time attorney with the Florida Senior Legal Helpline at Bay Area Legal Services since 2006. She has provided civil legal advice and resolved legal problems for thousands of elderly Floridians during that time. Ellen’s interest in elder law issues began in 1975 when she was hired as the first staff attorney for Senior Advocates, a unit of the Legal Aid Society of San Mateo County, California. An honors graduate of Mount Holyoke College and the University of Santa Clara School of Law, Ellen is licensed to practice in Florida, California, and the District of Columbia and is currently serving as the Florida Elder Justice Coordinator focusing on issues of elder abuse, neglect and exploitation.

*Toni Allen* is the Ombudsman Care Management Supervisor with the Allegheny County Area Agency on Aging. She has been with the AAA for 28 years. During this time, she served as a staff Ombudsman for 13 years and the supervisor of the Allegheny County Ombudsman
Program for 15 years. She is a graduate of Carlow University with a degree in Psychology/Sociology and Anthropology. She is a proud veteran of the United States Navy.

Mike Walters manages the Legal Hotline at Pro Seniors, Inc. in Cincinnati, Ohio. Pro Seniors is the statewide legal hotline for Ohio senior citizens. Mike also consults with The Center for Elder Rights Advocacy on writing and presentations. Mike has been practicing law since 1991, and he is admitted to practice in the state of Ohio and the Commonwealth of Kentucky, as well as the Federal courts. Mike is a frequent presenter on issues involving elder law and Social Security.
Person-centered Care on A Senior Legal Hotline

Ellen Cheek
Michael Walters
Ms. C calls the Hotline

She wants to know how to go about revoking a power of attorney document.
Should you simply answer her question?

• Establish rapport
• Cultural competency
• Establish trust
• Develop all relevant facts
• Help the client focus on the essential legal problem(s)
• Help your hotline accurately identify abuse/exploitation calls
Ms. C tells you she lives with a son who serves as her caregiver. She wants to make the son her POA

• You ask how long her son has been living with her? She either can’t or won’t answer the question.

• Her daughter is currently POA. Her daughter is busy and lives out of town. When you ask where daughter lives, it takes Ms. C a full 30 seconds to remember the name of the town where her daughter lives.

• She mentions that her daughter is not willing to help her son with money he needs for a lawyer for his pending divorce.

• You ask Ms. C if she is alone? She says her son is sitting next to her and listening right now.
What should you do?

• Demand that she call the hotline back when her son is not with her?
• Offer to call her back at a different time?
• Ask her what year it is and who the President is, to try to determine if she is oriented?
• Ask her to put her son on the phone?
• Ask some more questions?
• Something else?
Assume you ask Ms. C if you can speak privately?

• “I need my son to help me with this call.”
• “Can I put him on the phone so he can explain it?”
• “My son always helps me with things.”
• “I have a hard time remembering and I need him to help me with details.”
Assume son takes the phone

• He seems angry and proceeds to tell you about how his sister and he don’t get along.
• He describes his sister in “colorful” profane terms.
• He claims his sister is denying him and his mother necessary living expenses because he does not have access to the bank account.
• Mom can’t handle her own grocery shopping because of her physical limitations.