

ADA OVERVIEW: OFFENDERS WITH DISABILITIES AT MDO HEARINGS

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Objectives

- **Clinicians will better understand how to accommodate Mentally Disordered Offenders (MDO) with ADA needs during assessments for MDO proceedings by learning the following:**
 - The California Department of Corrections and Rehabilitation's (CDCR) Mental Health Services Delivery System
 - CDCR programs for providing services and accommodations to patients with disabilities
 - The Department of State Hospital's (DSH) programs for providing services and accommodations to patients with disabilities
 - Use of CDCR's Disability and Effective Communication System (DECS)

Overview of Session

- Introductions
- Key Concepts Regarding ADA
- Role of the MDO Clinician
- Mental Illness & CDCR/DSH Programs
- Additional Disabilities
- Effective Communication
- Disability and Effective Communication System

KEY CONCEPTS IN THE ADA



Americans with Disabilities Act

- **Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008**
 - Comprehensive civil rights law that prohibits discrimination and guarantees that people with disabilities have equal opportunities. Title II (42 U.S.C. section 12131 et seq.) applies to “public entities”.
 - “No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” (42 U.S.C. section 12132)

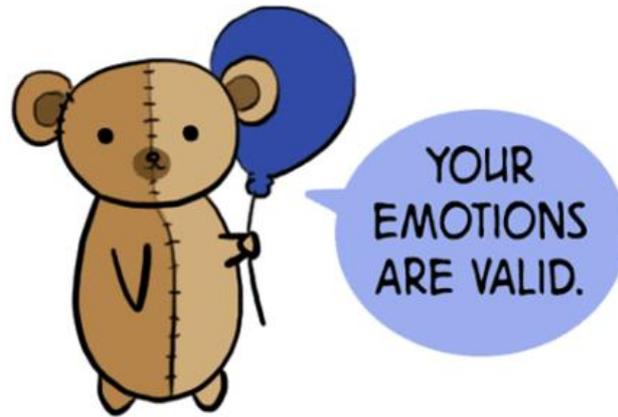
ADA Definitions

- **Disability** – A physical or mental impairment that substantially limits one or more of the major life activities.
- **The ADA favors broad coverage**
 - Disabled persons include those with a record of impairment or those regarded as having an impairment.
 - A person with a disability still falls within the ADA even if medical equipment or accommodation makes person not appear to have a disability.
- **Reasonable Accommodation** – Modification or adjustments to programs or services that provide a qualified person with *equal access to and/or effective communication* in the programs, activities, and services.

Role of the MDO Clinician

- MDO clinicians perform evaluations for various types of MDO proceedings. Many of the patients may have disabilities that require accommodation to enable participation in the evaluation.
- **GOAL** – To enable patients with disabilities to prepare for and participate in their MDO evaluations to the best of their abilities.
- **GOAL** – Explain in the evaluation how the patient's disability may impact any relevant MDO factors.

Mental Health Disabilities and the CDCR and DSH Mental Health Programs



EMM
ROY

CDCR: Mental Health Services Delivery System

- CDCR provides mental health treatment in accordance with its **Mental Health Services Delivery System** (MHSDS), which is currently based on the 5-Axis diagnosis system under the DSM-IV, but CDCR is transitioning to the DSM-V.
- Under the MHSDS, treatment and monitoring is required for offenders demonstrating current symptoms of specified Axis I diagnoses *OR* if the person requires treatment as a medical necessity.
- **“Medical Necessity” for this purpose is defined as:**
 - **“Mental health intervention is necessary to protect life and/or treat significant disability/dysfunction in an individual diagnosed with or suspected of having a mental disorder.”**

CDCR: Mental Health Levels of Care

- **Outpatient**

- Correctional Clinical Case Management System (CCCMS)
- Enhanced Outpatient Program (EOP)

- **Inpatient**

- Mental Health Crisis Bed (MHCB)
- DSH Treatment
 - Intermediate Care Facility (ICF)
 - Acute

- *Most ICF and Acute care is provided by DSH, however CDCR provides this care for female offenders

DSH: Mental Health Hospital Program

- DSH-Atascadero (ASH) and Patton (PSH) are maximum security, psychiatric facilities for forensically-committed patients, including mentally disordered offenders
- Patients admitted generally have a **major mental illness (Axis I)** and may additionally exhibit **personality disorders (Axis II)**.

DSH: Treatment & Rehabilitation

- DSH uses a recovery-oriented psychosocial rehabilitation philosophy, directing patients toward common goals of recovery and health, adaptive behavior and coping skills, self-esteem and independence, and progressive elimination of maladaptive behaviors.
- Activities (individual, small, and large group programs or therapy) are prescribed by the treatment team according to a patient's identified needs.

DSH: Levels of Care

- Unlike CDCR, DSH has a five-level Hospital Access System (HAS), which allows patients to progress through the system by demonstrating progressively increasing abilities to adhere to rules, self-regulate behavior, and maintain therapeutic relationships.
- All patients are initially admitted to the hospital at Level I, which is the most restrictive.
- Patients' Access levels are reassessed at every treatment planning conference.
- The HAS Manual clearly defines the behavior patients must be able to demonstrate to receive a particular access level.

DSH: Levels of Care

- **Level I:** requires staff escort/direct staff supervision
- **Level II:** Ability to navigate to and from single destination, but require supervision for other functions
- **Level III:** Generally adheres to hospital expectations, but has not demonstrated this for sustained period
- **Level IV:** Demonstrated hospital expectations continuously for 90 days
- **Level V:** consistently displayed good citizenship across a variety of hospital settings & recommended by Wellness Recovery Placement Team (WRPT) for placement in community

Additional Disabilities You May Encounter and Their Impact on Your Evaluations

- ▶ Medical Impairments
- ▶ Vision Impairments
- ▶ Hearing Impairments
- ▶ Mobility Impairments
- ▶ Developmental Disabilities
- ▶ Learning Disabilities
- ▶ Speech or Language Impairments

MEDICAL IMPAIRMENTS



REMEMBER:

1. Medical issues may affect a patient's ability to effectively participate in an evaluation.
2. Consider visiting the patient at his bedside.

- Medical impairments include any physiological disorder or condition affecting one or more systems of the human body.
- Patients with medical impairments can range from requiring 24-hour nursing care to requiring frequent or routine medical appointments.

VISION IMPAIRMENTS



REMEMBER:

Patient will likely need assistance with reading and writing any necessary documents during the evaluation.

- Vision impairment can range from needing glasses to blindness.
- BPH provides vision-related assistive devices in the hearing rooms.
- Patients identified as visually impaired will be transferred to a unit equipped with appropriate accommodations including appropriate signage in Braille and large print.
- The **ASH and PSH Parole Sub-unit** provides patients with assistance in reviewing files and legal documents

HEARING IMPAIRMENTS



REMEMBER:

1. Hearing aids may not be working properly
2. Patient may have an awkward writing style, as if writing in a foreign language.

- Hearing impairment can range from **hard of hearing** to **deaf**.
- Patients are considered deaf if their hearing loss is such that they are unable to understand speech and must rely on vision for communication.
- Hearing-impaired patients will be enrolled in the hearing loss group for treatment to assist recovery.

Sign Language is the Preferred Method of Communication

- **Sign Language Interpretation (SLI) is the preferred method of communication** for an interview with a deaf patient; however, you may encounter a situation where:
 - The patient became deaf later in life and didn't learn American Sign Language or
 - The patient does not know American Sign Language or knows only a modified "slang" version of sign language.
 - Written notes should be used as a last resort. If used, ensure a patient's reading/writing level is sufficient to allow for written notes.

MOBILITY IMPAIRMENTS



REMEMBER: If the patient needs any special assistance to attend the evaluation, notify the **ASH** or **PSH** Sub-unit.

- Mobility impairment includes any limitations in transporting oneself, and may include use of an assistive device.
- Health Care Appliances may include Wheelchairs, Canes, Walkers, Special Shoes, and identifying vests
- **Path of Travel:** CDCR and DSH may need to make modifications to the path of travel for the patient to travel throughout the institution.

DEVELOPMENTAL DISABILITY



REMEMBER:
CDCR Form
128C-2 contains
“prescription” for
adaptive services.
This may provide
you with valuable
information about
the patient’s
needs.

- A person with a developmental disability has low cognitive functioning and/or a substantial limitation in **adaptive functioning**.
- The level and type of adaptive support services needed will vary by individual regardless of DDP classification.
 - **DD1: Mild Adaptive Functioning Deficits**
 - Does not usually require prompts to initiate/complete self-care or ADLs, but may need coaching/support when under unusual stress or in new situations.
 - No victimization concerns
 - **DD2: Moderate Adaptive Functioning Deficits**
 - Requires some prompts for self-care/ADLs.
 - May have victimization concerns
 - **DD3: Severe Adaptive Functioning Deficits**
 - Regularly requires prompts for self-care/ADLs.
 - May have victimization concerns

DDP Adaptive Supports

ANY PATIENT IN THE DEVELOPMENT DISABILITY PROGRAM MAY:

- Require additional time and coaching to be oriented to the new situation of an MDO evaluation.
- Require assistance with reading, writing, preparing any documentation.
- Demonstrate poor understanding of relevant issues during the evaluation.
- Need to be spoken to in slow, simple English with repetition to ensure understanding.

NOTE: All patients in DDP with victimization concerns are placed at DD2 or DD3.

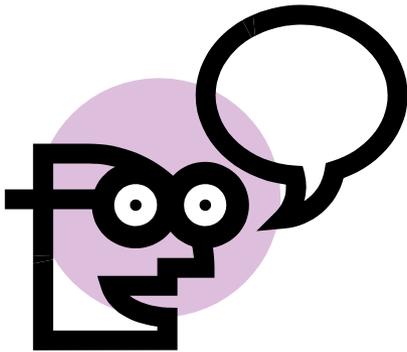
LEARNING DISORDERS



REMEMBER:
CDCR does not test inmates for learning disabilities; however, CDCR may verify past diagnoses of learning disabilities.

- A **learning disorder** is a cognitive disorder that affects the ability of persons with normal intellect to learn academic and social information.
- Common types of learning disabilities are **dyslexia** and **dyscalculia**.
- Patients may be considered learning disabled if they:
 - (1) Have a Test of Adult Basic Education (TABE) score of 4.0 or below
 - (2) Indicate need for assistance with effective communication
 - (3) Self-identify as having a learning disorder

SPEECH AND LANGUAGE DISORDERS



REMEMBER:
Patient may need help with reading, writing, and communicating during the evaluation.

- **Speech Disorders** include:
 - Stuttering
 - Articulation – Difficulty forming sounds & stringing sounds together, substituting one sound for another, omitting a sound, etc.
 - Voice Disorders – inappropriate pitch, loudness, or quality
- **Language Disorders** include:
 - Delayed Language – delayed development of vocabulary and grammar
 - Aphasia – The loss of speech and language abilities resulting from stroke or head injury

FOREIGN LANGUAGE SPEAKER



REMEMBER: The goals of effective communication are to understand and to be understood.

- Many patients either do not speak English at all or only as a second language.
- NOTE: Patients who speak English as a second language may forget some of their English skills when faced with the stress of a clinical evaluation.

Foreign Language

- All translation is done through Global Interpreting at 888-254-6098. (See handout)
- If you determine during the course of an evaluation that a patient not flagged for an interpreter does actually need one for effective communication, you can use the above telephonic interpreter services to achieve effective communication.

Effective Communication

- **Goal** – Communicate with the patient to the best of his or her abilities to enable participation in the evaluation.
- Determine how the patient communicates: (verbally, nods/shakes head, written notes)
- Use simple, concrete language: (Avoid legal or clinical jargon, avoid abstract concepts)
- Rephrase and repeat questions
- Pause frequently so as not to overload the patient
- Check for understanding: (“Can you repeat what I said in your own words?” “Do you understand what I am asking?”)

The Disability and Effective Communication System (DECS)



DECS Best Practices

- **ALWAYS** review DECS prior to conducting evaluation.
- Gain additional information about a patient's disabilities and needed accommodations by:
 - Reviewing the patient's **central file** from CDCR
 - Reviewing the patient's **eUHR** at CDCR and DSH
- **PLAN** for any needed accommodations for interview
- **CONDUCT** interview with needed accommodations
- **DOCUMENT** any accommodations provided in DECS
 - Best practice to use the "Enter Accommodations Provided" link to document what accommodations were provided.

Handouts

- Documents for your reference:
 - Copy of this PowerPoint
 - DECS Codes
 - DECS Step-by-Step Guide
 - Global Interpreting Instruction Sheet
- Documents available on the BPH website:
(www.cdcr.ca.gov/BOPH, “Resources for Persons with Disabilities”)
 - *Armstrong II* Remedial Plan – BPH’s plan for all ADA inmates/parolee-patients
 - *Armstrong I* Remedial Plan – CDCR’s ADA procedures
 - *Clark* Remedial Plan – CDCR’s Developmental Disability Program
 - BPH 1073, Notice and Request for Assistance at Parole Proceedings
 - BPH 1074, Request for Reasonable Accommodation – Grievance Process

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