Mental Health Therapy is a Legal Right for People with Intellectual and Developmental Disabilities

A National Civil Rights Manifesto

The constitution protects the right of adults to make their own medical decisions. (Cruzen v. Missouri (1990) 497 U.S. 261, 262; Thor v. Superior Court (1993) 5 Cal.4th 725, 731)

People with developmental disabilities have the right to full participation in society and to equal access to health care services. (ADA Section 12101; Wash. Rev. Codes Section 71A-10.030)

When courts give the power to make health care decisions to guardians or conservators, these fiduciaries must be pro-active. They must become aware of the need for and arrange for appropriate mental health treatment for adults under their care. (Los Angeles Daily Journal Commentary)

Many individuals with intellectual and developmental disabilities experience chronic trauma and may also have trauma-related medical conditions as a result of abuses they have experienced. They need trauma-informed therapy. Many also have a dual diagnosis due to mental health conditions arising from other causes. They need appropriate and effective mental health therapy. (Commentary: “Trauma-Informed Justice: A Necessary Paradigm Shift for the Limited Conservatorship System; Commentary: “Disability and Abuse: Evidence-Based Data Should Drive the Narrative”)

There are a wide range of mental health therapy options available for people with intellectual and developmental disabilities, including therapies to treat trauma, depression, anxiety, and PTSD. (“Intellectual and Developmental Disabilities: A Bibliography on Trauma and Therapy” [Part One: Books] [Part Two: Articles and Other Resources])

Individuals with intellectual and developmental disabilities have a right to prompt medical care and treatment. (Cal. Welf. & Instit. Code Section 4502(b)(4)) Failure to provide such care is neglect.

Many mental health professionals throughout the United States provide counseling and therapy for individuals with intellectual and developmental disabilities. More than 400 such professionals have been identified in California alone. (Vendor Lists of Regional Centers) Trauma-informed therapy and other specialized training programs should be made more available to these professionals.

Care providers who deprive necessary health care services to dependent adults in their custody or care commit dependent adult abuse. (Wash. Rev. Codes Section 74.34.020(16)) Medical care includes mental health therapy. Deliberate indifference to medical and mental health needs is unconstitutional. (Doty v. County of Larsen (9th Cir. 1994) 37 F.3d 540, 546)

People without disabilities have access to a full range of mental health therapies. It is disability discrimination for guardians, conservators, or other care providers to deprive individuals with disabilities access to a full range of mental health therapy options. (Federal Law: Americans with Disabilities Act; State Law: Cal. Gov. Code Section 11135; Wash. Rev. Codes Section 49.60.030)


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