

I. Introduction

Increasingly, MRMA members (“Member(s)”) are being requested by parents or guardians (as part of an inclusion request) to perform tasks and/or services which (a) are personal in nature (e.g., assistance with toileting or feminine protection), (b) are invasive (e.g., the cleaning and reinsertion of a G-tube), or (c) require medical training, skills or judgment beyond that of a layperson. At times, a requested accommodation is beyond the scope of “reasonable accommodation” under Title II of the Americans with Disabilities Act (“ADA”) and presents potential risk of serious injury or death to the participant if the service or task is not performed correctly. At other times, the requested service or task presents as inherent risk of injury or death, despite full compliance with applicable instructions/guidelines. In other circumstances, the requested service or task may require the service provider to have a medical certification or license in order to perform it legally and safely. In all circumstances, requests to provide such personal services or tasks are emotionally-charged and Members must carefully evaluate and address such requests for on a case-by-case basis **before** agreeing to provide or refusing to provide such service and/or before allowing or denying participation in the program or service in which the individual in question wishes to participate.

Given the virtually limitless number of medical conditions for which participants may request assistance, it is not possible to create a “one size fits all” guideline for determining whether and how staff might provide assistance in a particular instance – there is no precise science or formula for assessing and addressing requests for accommodation. Requests for accommodation should be evaluated on a case-by-case basis and should include: (1) identifying and balancing the legal rights of the Member and the participant; (2) performing a safety and risk assessment; (3) ensuring that the participant can safely meet all the essential eligibility requirements of the program **prior** to commencement of participation therein; and (4) clarifying, identifying, documenting, and addressing any and all needs for information, medical authorization and/or instruction, staff training, etc.

The Program Coordinator or program staff of a Member should perform this evaluation and determine the related ramifications and whether such a request must be granted under the ADA. The above four steps and the correlative evaluation should be done through coordination of the Program Staff, Program Coordinator, Superintendent of Recreation, MRMA representative and a trained inclusion staff member of the NWSRA (collectively, the “Evaluation Team”). Documentation of this process is critical in developing a case file on the request and should be done **prior** to contacting the participant and/or parent or guardian.

II. General Principles

Each situation will vary and each discussion point will need individual evaluation and related discussion. The following are some guiding principles that will apply in virtually all such situations:

- 1.) Ordinarily, Title II of the ADA does not require public recreation providers to provide services that are either personal in nature (e.g., toileting, dressing, feeding, feminine protection assistance, etc.) or medically invasive in nature (e.g., administration of rectal medication,

procedures which require medical skills and judgment, syringe injections, g-tube management, determining when and in what dosage to administer medication, etc.). Generally, *the Member may legally decline to perform such services for a participant.*

- 2.) When a participant (or parent/guardian) requests a service potentially outside the scope of *reasonable accommodation* under the ADA, the Member should initially explore other potential options. For example, can a family member or aide/companion (provided and paid for by the participant/family or other third party source) perform the requested service? Or, for example, in the case of medication that cannot be easily administered by staff, can the medication be given to the participant before or after the program (e.g., by a family member, school nurse or the like)?
- 3.) *The diagnosis or treatment of any medical condition requires training and a professional license.* Existing state laws (e.g., The Medical Practice Act of 1987 and The Nursing and Advanced Practice Nursing Act) prohibit anyone who is not properly trained and licensed to provide any type of diagnosis or treatment for any type of medical condition. In addition, manufacturers of medical devices or medications often recommend (or even require) that the device or medication only be used, administered or provided by persons who have received training and/or authorization from the treating physician. *If medical training or judgment is required, do not agree to perform the procedure or to dispense the medication – temporarily suspend participation and immediately seek professional guidance.*
- 4.) This process or the approval of inclusion should never be based on the judgment of non-medical staff in any medically-based intervention that may become or may involve life threatening implications. In any instance where a participant appears to require emergency medical assistance of any type, immediately call 911 – **before you contact the family!** Always err on the side of caution and never agree to withhold or delay summoning emergency medical services pending parent/guardian approval.

III. Risk Management Analysis

After the aforementioned four steps have been taken the Evaluation Team needs to identify, discuss and document the risk management implications of providing or withholding any form of medically based inclusion requests. The following questions should be answered **before** any agreement is made either to provide personal service, to perform medical-type tasks or to dispense medication:

- 1.) Is medical training or judgment required in order to recognize the problem/ symptom or determine the appropriate response?
- 2.) Does the device, medication or procedure require medical training and/or training/authorization by a licensed medical professional?
- 3.) Is there a risk of serious personal injury to either: (a) the participant; (b) staff; or (c) other participants if the procedure or task is performed incorrectly?

- 4.) In cases of medical conditions, has the treating physician agreed *in writing* that a staff person with no medical training or license can safely perform the procedure? This documentation needs to be secured and submitted by the participant or his/her parents.
- 5.) Has the treating physician provided detailed, step-by-step instructions for recognizing and responding to the medical condition, and do those instructions require member staff to determine whether and when to give medication or in what amount?
- 6.) Does the procedure require specific medical training or is it non- invasive, routine and non-medical (e.g., taking a temperature, reading a blood glucose level, administering medication in predetermined dosages and in a non-invasive manner, etc)?
- 7.) Can the participant *safely* meet *all* the essential eligibility requirements of the program, with or without reasonable accommodation?

Tier I

A “no” answer stops the process:

- 1a.) Has the treating physician been asked to give approval for non-medical staff to perform the procedure?
- 1b.) Has the treating physician provided written confirmation that non-medical staff can safely perform the procedure?
2. Implementation of the procedure does not require medical diagnosis and/or medical judgment?
3. The manufacturer of the product does not require that a licensed medical professional use the product?

Tier II

(Items to be addressed as part of the risk management plan for that individual):

1. Does the agency have competent staff adequately trained and skilled (i.e., has staff been cross-trained in the event other staff is unavailable)?
2. How often will the procedure be performed?
3. How invasive is the procedure?
4. What are the consequences of incorrectly administering the procedure?

At this point in the process it may be necessary or desirable to involve the participant or parent or guardian in the discussions and analysis. This may be for several reasons. First, it may be necessary to obtain or validate the facts of the situation and how the questions are answered. Second, it may initiate ideas or thoughts on how the request may be handled without involving staff intervention. Last,

involvement from them will provide a sense that the park district is attempting to honor feasible requests and not just automatically denying a request or participation in the program or service.

Conclusion

It is the intention of the park district to honor a medically-based inclusion request for participation in park district programs and services when such a request meets the criteria set forth in this policy and within the guidelines and that does not place the participant, staff, other participants or a Member in harm's way or in a position of likely liability exposure.

The proper assessment of each individual request and situation must be handled with care and involve a candid and accurate discussion of the factors involved. The Evaluation Team and the participant and/or his/her parent or guardian should be included in the dialog after the first assessment by the core staff representatives has been completed. Documentation of this evaluation is crucial for the case file so that the criteria used to determine the feasibility of accepting or denying a medically-based inclusion request is available to respond to any future challenge that may occur. The park district will assess and use criteria and consistent guidelines in determining whether to grant or deny medically-based inclusion requests not required to be granted by the ADA, and in doing so the park district will not place the safety or well-being of the participant, fellow participants, staff or park district in jeopardy.

Draft 12-3-12

Forms and Letters in Reference to this Policy Follows:

Palatine Park District

250 E Wood Street

Palatine, IL 60067

847-991-0333

www.palatineparks.org

PHYSICIAN AUTHORIZATION

FOR

ADMINISTRATION OF TREATMENT

(To be completed by the Physician)

_____ is under my medical care and requires the following treatment during recreational programming. I authorize designated Palatine Park District staff to perform the following treatment:

TREATMENT ORDER _____

EQUIPMENT _____

FREQUENCY OF TREATMENT _____

SPECIFIC INSTRUCTIONS _____

SIDE EFFECTS/ PRECAUTIONS _____

SIGNATURE OF PHYSICIAN _____

PRINTED NAME OF PHYSICIAN _____

ADDRESS _____

EMERGENCY TELEPHONE _____

(To be completed by parent/ legal guardian)

I, _____, give permission for _____ to receive the above treatment(s) from _____ as directed above by the physician. I will provide to Palatine Park District, in advance, all supplies needed to do the procedure. I will notify Palatine Park District in writing of any changes in the treatment. I understand that a Palatine Park District staff member will assist in the above treatment.

PARENT/ LEGAL GUARDIAN _____ DATE _____

PRINTED NAME OF PARENT/ LEGAL GUARDIAN _____

EMERGENCY TELEPHONE _____

Palatine Park District

250 E. Wood Street, Palatine, IL 60067

(847) 991-0333 ♦ ♦ www.palatineparks.org

WAIVER AND RELEASE FOR TUBE FEEDING

IMPORTANT INFORMATION

WARNING OF RISK AND PARENT/GUARDIAN RESPONSIBILITY

Despite careful and proper preparation, instruction, medical advice, and equipment, there is still a risk of serious injury when providing assisted feeding, such as tube feeding. Understandably, not all hazards and dangers can be foreseen. Depending on the particular participant and/or nature of the assisted feeding, certain risks and dangers include, but are not limited to tube clogging, tube dislodgement, improper mixture, bacterial infection and all other potential complications associated with tube feeding. In this regard, it must be recognized that it is impossible for the Palatine Park District to guarantee safety for tube feeding.

As the parent or legal guardian of the participant you are responsible for providing necessary and adequate instructions, procedures, training and demonstrations to the Palatine Park District staff providing services. Various factors may warrant reconsideration at any time of this particular accommodation by the Palatine Park District including denial of the request.

WAIVER AND RELEASE OF ALL CLAIMS AND ASSUMPTION OF RISK

Please read this form carefully and be aware that in consideration for accommodating your request to tube feed your child/ward, you will be expressly assuming the risk and legal liability and waiving and releasing all claims against the Palatine Park District for injuries, damages or loss (including state and federal civil and constitutional rights claims) which you or your minor child/ward might sustain as a result of assisted tube feeding.

I acknowledge and understand that tube feeding is a personal service outside the scope of "reasonable accommodation" under the Americans with Disabilities Act ("ADA") and the Palatine Park District is under no legal obligation to accommodate my request to tube feed my child/ward. I understand and agree that the Palatine Park

District retains the right to exercise its discretion and to discontinue its voluntary accommodation of this request at any time.

I further recognize and acknowledge that there are certain risks of physical injury and complications associated with tube feeding, and I voluntarily agree to assume the full risk of any and all injuries, damages or loss, regardless of severity, that my minor child/ward or I may sustain as a result of tube feeding. I further agree to waive and relinquish all claims I or my minor child/ward may have (or accrue to me or my child/ward) arising out of or in any way connected with the tube feeding of my child/ward against the Palatine Park District, including their officials, agents, employees, borrowed employees, loaned employees, volunteers and contractors (hereinafter collectively referred as "the Parties). I do hereby release and forever discharge the Parties from any and all claims for injuries, damages, or loss that my minor child/ward or I may have or which may accrue to me or my minor child/ward and arising out of, connected with, or in any way associated with tube feeding my child/ward.

I have read and fully understand the above important information, warning of risk and parental/guardian responsibility, assumption of risk and waiver and release of all claims.

PLEASE PRINT

Participant's Name _____

Signature of Parent/Guardian _____

Date _____

Assisted Tube Feeding WILL BE DENIED

if the signature of adult participant or adult/guardian and date are not on this waiver

Dear Ms.:

Review of your registration information indicates that your child uses a gastrostomy tube ("g-tube"). Please understand that personal services such as g-tube feeding and g-tube management are outside the scope of "reasonable accommodation" required under Title II of the ADA. However, the Palatine Park District may consider voluntarily providing this service based upon various considerations including but not limited to: our staffing needs and abilities, staff-to-patron ratios, the impact on our program, execution of a waiver and release of all claims, and the need for medical instructions and authorizations.

To assist us with your request, please provide the following material at least one week before the scheduled program:

- a. A written physician statement authorizing g-tube management by Park District staff
- b. Copy of the manufacturer-approved g-tube feeding and g-tube management guidelines;
- c. Enclosed Gastrostomy Tube Information Sheet (completed)
- d. Enclosed waiver (signed)

Once the information is received by Palatine Park District, the materials will be reviewed to determine if it is feasible and manageable to provide the personal service and/or the need for you to assist with staff trainings. If it is determined that the procedure will be provided, a parent will need to meet with staff to provide training. Once approved, the plan is in effect for one year, or until sooner terminated by the Palatine Park District in its sole discretion. If the plan is unable to be implemented, consideration will be given to the possibility of a family member or caregiver attending the program to administer the procedure. The safety of the participants and staff members of the Palatine Park District is our first concern. Please contact Donelda Danz at (847) 202-5544 with questions.

Sincerely,



Gastrostomy Tube Information Sheet

Please complete all questions. This information is essential for the Palatine Park District in determining the participant's special needs and providing a positive and supportive recreational environment. If you have any questions about how to complete this form, please contact the Palatine Park District office.

CONTACT INFORMATION:

Participant's Name: _____ Date of Birth: _____

Parent/Guardian Name: _____ Tel. (H): _____ (W): _____ (C): _____

Other Emergency Contact: _____ Tel. (H): _____ (W): _____ (C): _____

Participant's Primary Care Dr.: _____ Tel: _____

FEEDING INFORMATION:

1. Type of g-tube: (pump, bag, syringe) _____

2. If pump, what rate should we run it at? _____

3. What time(s) for feeding? _____

4. How much food? _____

5. If leftover food in can should we save it or throw it out? _____

6. How much water? _____

7. Is the food and water mixed or does the water follow as a flush? _____

8. Does he/she receive feeding while in wheelchair or laying down? _____

9. About how long should feeding take? _____

10. After feeding do you want us to rinse out equipment? _____

11. Should participant receive extra water through their g-tube throughout the day? _____

_____ Time(s) _____

12. Can participant take anything orally? _____

13. After feeding does the participant need to stay upright? How long? _____

EMERGENCY INFORMATION:

In the event that a g-tube comes out, Palatine Park District considers replacement of g-tubes as too invasive for park district staff. If this situation occurs the parent/guardian will be called.

14. If this were to happen and you were unreachable what should we do? _____

15. Is there any other information that the park district should know? _____

Parent/Guardian Signature: _____ Date: _____

Dates Updated: _____, _____