

PDRMA

Participant Care Guidelines

I. Introduction

Increasingly, PDRMA's members are being asked to perform tasks and/or services which are either personal in nature (e.g., assistance with toileting or feminine protection), invasive (e.g., the cleaning and reinsertion of a G-tube), or require medical training, skills or judgment beyond that of a layperson. At times, the requested accommodation is beyond the scope of "reasonable accommodation" under Title II of the ADA and presents potential risk of serious injury or death to the participant if the accommodation is not performed correctly. At other times, the requested accommodation has inherent risks of injury or death, despite full compliance with applicable medical instructions/guidelines. In other circumstances, the requested accommodation may require the service provider to have a medical certification or license in order to perform the procedure legally and safely. In all circumstances, such requests for accommodation are emotionally-charged and members must carefully assess and address such requests for accommodation on a case-by-case basis **before** agreeing to provide the requested accommodation.

Given the virtually limitless nature of medical conditions for which individual patrons 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 during which time members must: (1) identify and balance the legal rights of the member and participant; (2) perform a safety and risk assessment; (3) ensure that the participant can safely meet all the essential eligibility requirements of the program **prior** to commencing participation in any program; and (4) clarify, identify, document, and address any and all need for information, medical authorization and/or instruction, staff training, etc.

II. General Principles

Some guiding principles 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 can legally decline to perform such services for a patron.*
- 2.) When a participant (or parent/guardian) requests a personal or medical 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 accommodation? 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 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 dispense the medication – temporarily suspend participation and immediately seek competent legal counsel.*
- 4.) 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

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?
- 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?