

May 5, 2016

To all Certified Providers:

It has come to our attention, as surveyors have been completing provider certification reviews, that citations for lack of consent by the individual or legal representative for rights restrictions are more common. We hope to proactively make providers aware of this so that they can ensure such an important item is in place. An opportunity to consent or withhold consent for restrictive measures is essential in protecting individuals' rights and it is also important in regards to liability issues when a provider is implementing restrictive measures.

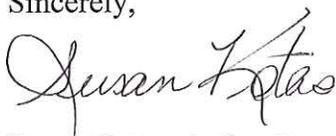
While some providers have always used a separate consent form for this purpose, others have relied on the wording found on the signature page of the Individual Program Plan (IPP), above the individual's and guardian's signatures, that stated "I have participated in the development of my plan. If applicable, my signature also indicates that I consent to restrictions outlined in my plan." The new Individual Service Plan (ISP) form does not include this language.

Two potential ways of documenting an individual or legal representative's consent might include:

- documenting the thorough discussion of the rights restrictions in the narrative of the ISP along with clear indication of consent; or
- consistently completing a separate form listing the rights restrictions and other related information, including the date of consent.

For your convenience, a listing of regulations related to the providers' responsibilities regarding consents is included. If you have any questions, please contact me at (402) 462-1833 or Susan.Kotas@Nebraska.gov.

Sincerely,



Susan Kotas, Acting Program Manager
Division of Public Health, Licensure Unit
Community Based DD Services

cc: file
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404 NAC Regulations relevant to consent –

4-005.05 Individuals' Personal Funds and Property
4-005.05A General Requirements - #2

4-013.01 Individual Record - #10
4-013.02G1
4-013.02G2

5-003.02B Rights
5-003.02E

6-004.01 Restrictive Measures - #6

Other 404 NAC Regulations relevant to restrictive measures –

4-011 RIGHTS REVIEW COMMITTEE

6-004.01 Restrictive Measures - #1 - 8
6-004.01A Review and Approval of Restrictive Measure