



HOME & COMMUNITY BASED SERVICES – FINAL RULE

CHOICE, SELF-DETERMINATION, INCLUSION

PROVIDER ORIENTATION

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ORIENTATION AGREEMENTS

- Active Listening
- Make I Statements
- Stay on topic



TODAY WE WILL REVIEW:

- History of Service System to people with I/DD
- Lanterman Act
- Olmstead Decision
- Centers for Medicare & Medicaid Services (CMS)
Home & Community Based Services (HCBS)
Final Rule
- Provider Self-Surveys
- How do you know if your service is doing the right thing?



HOME & COMMUNITY BASED SERVICES (HCBS)

Purpose of HCBS Final Rule

- CHOICE
- SELF-DETERMINATION
- INCLUSION

Desired Outcome for today's training

- You understand how the service(s) you offer need to operate within the HCBS Final Rule



WHERE HAVE WE BEEN?





**HISTORY OF SERVICES
FOR PEOPLE WITH
DEVELOPMENTAL DISABILITIES**



BEFORE THE LANTERMAN ACT



396 - MEN'S DEPARTMENT, STATE HOSPITAL, STOCKTON, CAL.

PUBLISHED BY E. P. CHARLTON & CO. - STOCKTON, CAL.

THE MEDICAL MODEL OF DISABILITY

- Used in California State Hospitals even today!
- What is “wrong” with the person
- Impairments should be “fixed” by treatments
- Low expectations → people lose:
 - independence
 - choice
 - control in their own lives.
- People are worked on and not with.





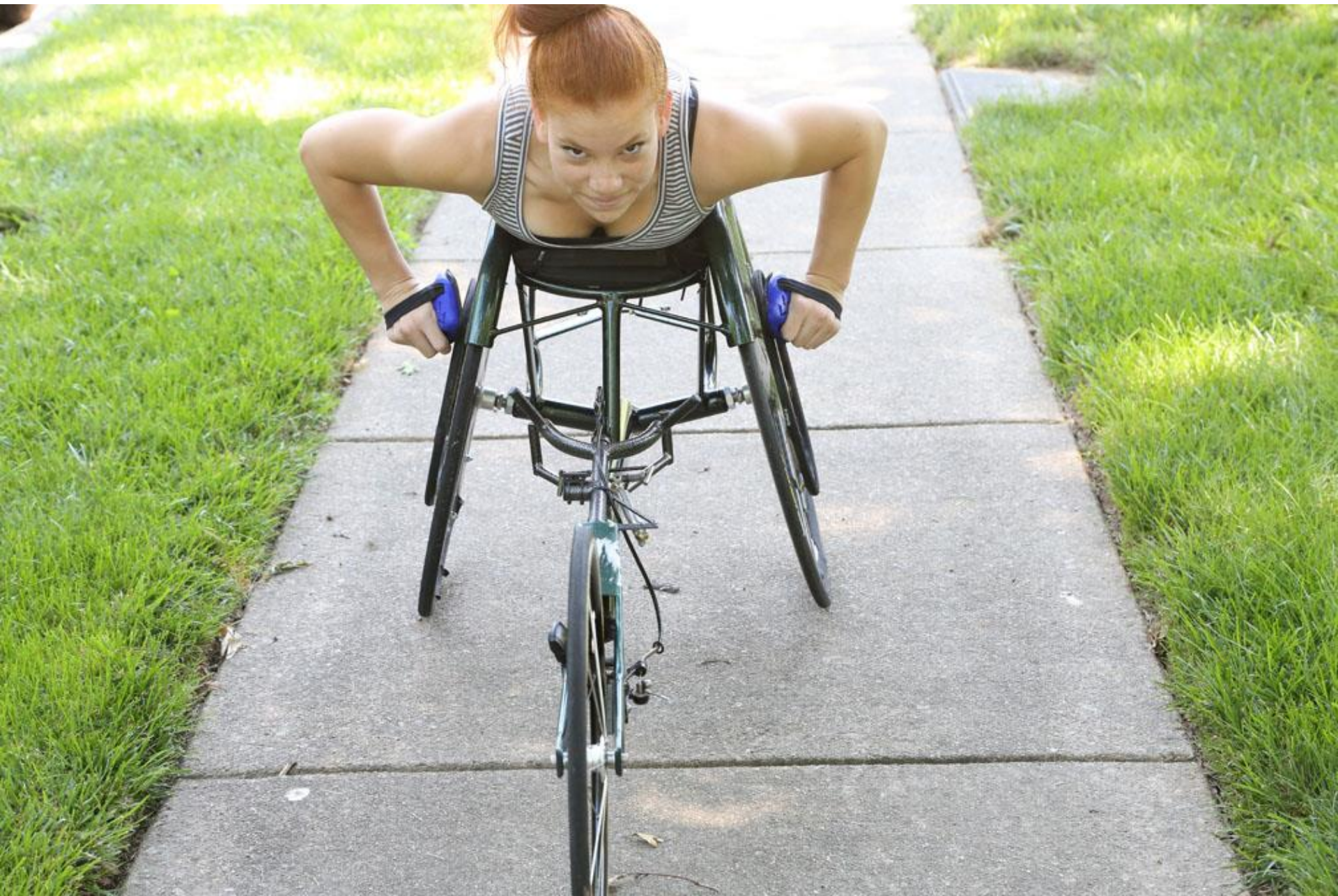
**"INJUSTICE ANYWHERE IS A THREAT
TO JUSTICE EVERYWHERE."**
Martin Luther King, Jr.



THE SOCIAL MODEL: DEVELOPED BY PEOPLE WITH DISABILITIES

- Disability **caused by the way society** is organized
- **Remove barriers** that restrict life choices for people with disabilities and create:
 - **Independence**
 - **Equality**
 - **Choice & Control over own life**
- People are **worked with** and not on.





Issue	Medical Model	Social Model
Transport	Specialist transport is provided for people who cannot access mainstream transport.	Mainstream transport and infrastructure is made accessible for everyone.
At Home	Homes are adapted and specialist products are recommended by professionals such as Occupational Therapists to meet the needs of individual disabled people.	Mainstream retailers (kitchen and bathroom shops) offer more options such as different heights and depths of units as standard. Products around the home are designed with accessibility in mind so that specialist products are not required.
Education	Disabled children receive specialist provision in special schools and are entered for alternative qualifications.	Disabled children are educated in accessible mainstream schools alongside non-disabled children. Education provision is accessible to all with the same qualifications and opportunities open to all who wish to access them.
At work	Sheltered workplaces are created for disabled people to work alongside other disabled people in a specially adapted environment doing specific work.	Workplaces are made accessible for disabled people and training and development available to disabled people enables them to apply for a range of roles
Communication	Communication takes place in 'standard' ways e.g. letters are in size 12, if someone is unable to read them they can be given magnifiers or ask someone to read the information for them.	Communication is tailored to meet the needs of the individuals involved and information is available in a range of formats.
Language	Language usually refers to a person's medical condition, what is 'wrong' with them and what they can and can't do.	Language is focussed around the barriers faced by an individual and what can be done to remove them.
Attitudes	People make assumptions about what someone is capable of based on information about their medical condition for example using internet searches.	People talk to individuals about their needs and experiences and the barriers they face.

UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES ARTICLE 3: GENERAL PRINCIPLES (12/13/2006)

- a) Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b) Non-discrimination;
- c) Full and effective participation and inclusion in society;
- d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e) Equality of opportunity;
- f) Accessibility;
- g) Equality between men and women;
- h) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.



TRANSITION FROM INSTITUTIONS TO HOME AND COMMUNITY BASED SERVICES

- 1965 – First Regional Centers:
 - San Francisco
 - Los Angeles
- 1969 - Lanterman Act
 - statewide expansion of regional centers
- 1976 - 21 regional centers developed in statewide network



THE LANTERMAN ACT (1969)

- Defines structure and principles of the CA service system for people with developmental disabilities.
- Right to treatment, habilitation services, and supports in the least restrictive environment.
- Right to plan services and choose who will provide them.



PRINCIPLES OF THE LANTERMAN ACT

ACCESS

CHOICE

INTEGRATION



THE LANTERMAN ACT - ACCESS

Services and Supports that meet “the needs and choices of each person...regardless of age or degree of disability, or stage of life and to support their integration into the mainstream life of the community.”



THE LANTERMAN ACT - CHOICE

People should be able to choose where and with whom they live, and should be given choice regarding their education, employment, and leisure, the pursuit of their personal future, as well as program planning and implementation.



THE LANTERMAN ACT - INTEGRATION

- People should not be excluded from typical life activities
- Services and supports should be available to enable inclusion in community life.



LIMITS OF INTEGRATION! (FROM MENTOR)

- **De-institutionalization** was originally seen as the right thing to do. The prevailing notion was that if institutions were closed, people would be welcomed back into their communities. Wrong!
- **Integration** was thought to lead to community acceptance, but ultimately people were said to be integrated when they were merely physically present in the community. Community acceptance did not necessarily follow.
- **Inclusion** is the distinction between the physical presence (integration) and social acceptance and full participation in the community.



UNITED STATES SUPREME COURT OLMSTEAD DECISION - 1999

1995 - Lois Curtis

@ State Institution



2011 - Lois Curtis

@ White House



Olmstead Decision in 1999 – “the Supreme Court held that unjustified institutional isolation of people with disabilities is a form of unlawful discrimination under the Americans with Disabilities Act, thus taking a giant step forward for the millions of people with disabilities across the country.” – Sue Jamieson – Lead Attorney in *Olmstead v. L.C.*

A Day In the Life...



[this 'day in the life' film](#)



WHAT ARE HOME AND COMMUNITY-BASED SERVICES (HCBS)

- Long-term services and supports provided in home and community-based settings
- Can be a combination of standard medical services and non-medical services
- **EXAMPLES:**
 - service coordination
 - day and residential services
 - personal care
 - respite care supports



SETTINGS/SERVICES IDENTIFIED IN THE STATEWIDE TRANSITION PLAN (HCBS)

- Activity Center (505)
- Adult Day Care Center (510)
- Adult Day Care Facility (855)
- Adult Day Program (702)
- Adult Day Support Center (510)
- Adult Development Center (510)
- Adult Family Home Agency (904)
- Adult Residential Facility 905, 915, 930, 935, 090
- Behavior Management Program (515)
- Certified Family Home (904)



SETTINGS/SERVICES IDENTIFIED IN THE STATEWIDE TRANSITION PLAN – CONTINUED

- Child Day Care Center (851)
- Child Day Care Facility (851)
- Community Activities Support Services (063)
- Community Integration Training Program (055)
- Community-Based Training Program (055)
- Family Child Care Home (none)
- Family Teaching Home (904)
- Foster Family Home (904)
- Group Home (920, 113, 090)
- Residential Care Facility for the Elderly (905, 915)



SETTINGS/SERVICES IDENTIFIED IN THE STATEWIDE TRANSITION PLAN – CONTINUED

- Small Family Home (920)
- Socialization Training Program (028)
- Supported Employment (Group Services) (950)
- Work Activity Program (954)



“NEW” HCBS FINAL RULE

- New CMS HCBS Regulations were published 1/26/2014 (see handout)
- States have until March 2022
- States submit plans for change to come into compliance
- 2018 California Transition Plan received “initial” approval.



HOME & COMMUNITY BASED SERVICES (HCBS) FINAL RULE

- Old Definitions: “what they are not”
- Now defined by the nature and quality of people’s experiences
- Outcome-oriented
- Not based solely on location, geography, or physical characteristics.
- Maximize the opportunities for participants to access the benefits of community living to receive services in the most integrated (inclusive) setting



HCBS-FINAL RULE

CRITERIA FOR ALL SERVICE SETTINGS

- **Integrated** in and supports full access to the community;
- **Choice:**
 - Is selected by the individual from among setting options;
 - Optimizes autonomy and independence in making life choices; and
 - Facilitates choice regarding services and who provides them.
- **Self-Determination:**
 - **Freedom** to plan your life and make decisions just like people without disabilities are able to do.
 - **Authority & Responsibility:** you make decisions in your life and to accept your valued role in the community.
 - **Support:** you pick the people and supports that help you live, work, and play in your community.
 - **Confirmation:** you are the most important person when making plans for your life. You are the decision maker about your services.



ADDITIONAL REQUIREMENTS

For provider owned/controlled residential settings:

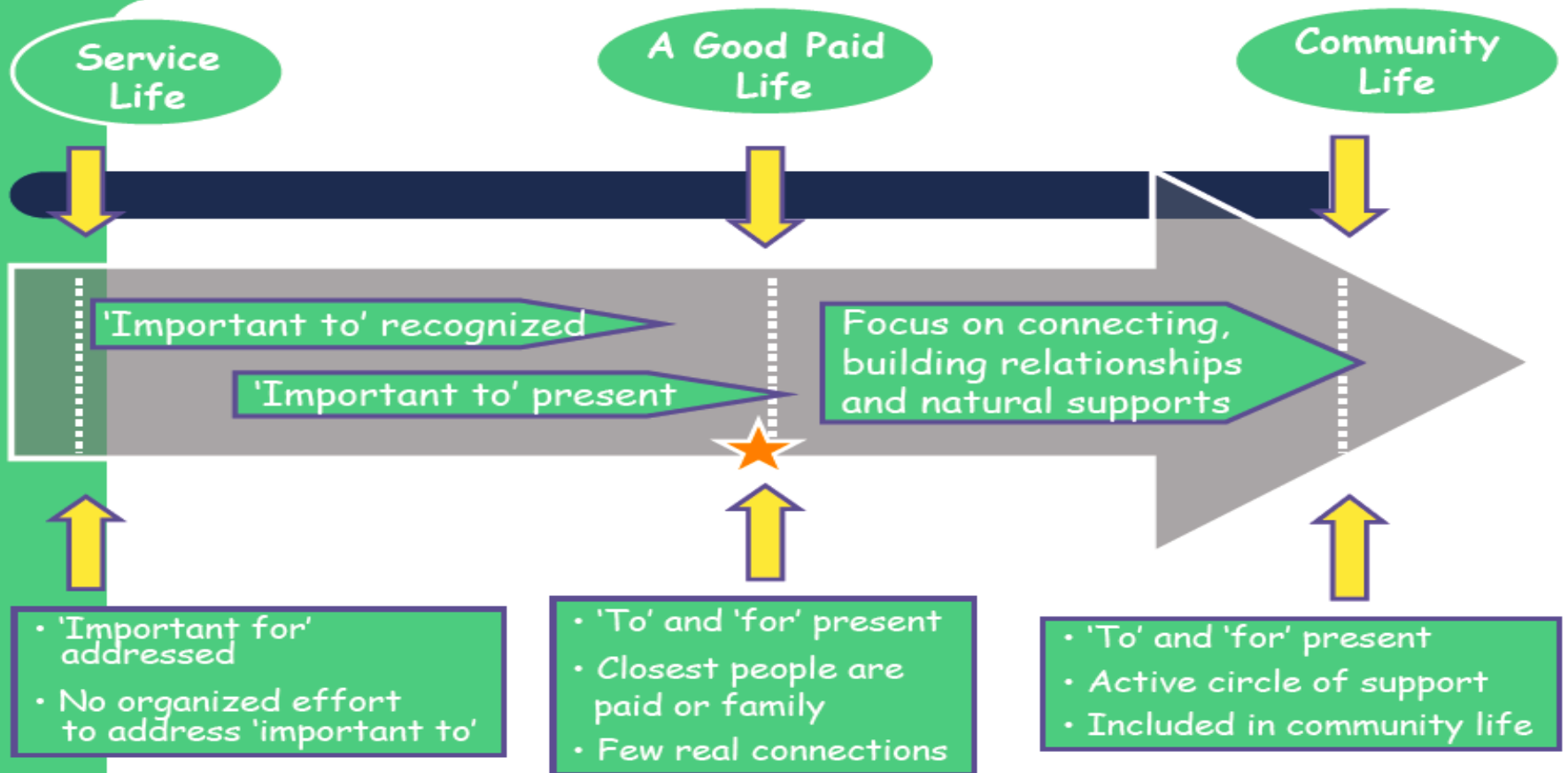
- Person has an admission agreement, **lease** or other legally enforceable agreement providing similar protections;
- Person has **privacy** in their room (unit):
 - lockable doors with their own key!
 - choice of housemates (roommates)
 - freedom to furnish or decorate
- Person **controls** his/her own schedule including access to food at any time;
- Person can have **visitors** at any time; and
- Setting is **physically accessible**.



UNDERNEATH THE RULE

A PARADIGM CHANGE

Moving from Service Life to Community Life



WE'VE HAD COMMUNITY BASED SERVICES FOR 50 YEARS – SO WHAT'S THE PROBLEM?

Institutional Quality of Life

- House
- Neighborhood
- Only interact with Staff
- Passive attendance at community activities

Benefits of Community Living

- Home
- Knowing your neighbors
- Spending time with friends and family
- Contributing to community events/organizations



**How do you know if
your Service is doing
the right thing?**

(AKA in compliance with the
HCBS Final Rule)

DISCUSSION

- PROVIDER SELF-SURVEYS
- Within the service(s) that you offer what one thing do you think could happen to really promote people living inclusive lives?



HOMework

Complete an updated Provider Self-Survey by 9/30/2019

Return completed survey to:

- Mendocino & Lake – Cindy Claus-John
- Humboldt & Del Norte – Sierra Braggs



WHAT TO EXPECT IN THE FUTURE

- Level 1 changes - Today
 - Responsibility: Identify those things that are important to people who receive support; implement strategies to assure they are present in day-to-day life. Identify areas where change can happen without permission. Act on those Areas.
 - **Activity – write 1 thing you can do now with the tools you have in the current structure you work in to promote client power to choose.**
- Level 2 changes – RCRC started in 2008
 - Alter and implement changes to policy, practice, structure, rules, organizational culture, standards or requirements as needed to create a person-centered organization.

