Speakers

• Hilary Dalin, J.D.
  – Director, Office of Elder Justice and Adult Protective Services, Administration for Community Living, US Department of Health and Human Services
• Shelly Jackson, Ph.D.
  – Consultant, Elder Justice Initiative, US Department of Justice
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  – Aging Services Program Specialist, Office of Elder Justice and Adult Protective Services, Administration for Community Living, US Department of Health and Human Services
NAMING THE PROBLEM
Competing Interests

• Sharing information to maximize assistance to client
• Preserving client privacy – value of clients deciding what gets said about them
• Being a “team player”
• Advocating for what the client wants
Privacy

• Statutory and ethical constraints
  – What does your state statute and/or regulation say?
• Meaning of consent
Influencers

• State statute
• Professional ethics
• Federal statutes (less impact on APS)
National Voluntary Consensus Guidelines for State APS Systems

Updated | March 2020

National Voluntary Consensus Guidelines for State APS Systems
FINDING SOLUTIONS: GETTING CREATIVE
Strategies

- Consent is the gold standard
- What can you share without consent?
- Explore MOUs and MOAs
- Can HIPAA help?
- Check in with your counsel
- Lay out the “rules of the road”
Consent

• Role of consent
• The “gold standard”
Sharing What You Can

• Just because you can’t share everything doesn’t mean you can’t share *anything*
• Without using PII, you can discuss the broad strokes of a case
MOUs and MOAs

• Look to your agency’s organizational chart
• Look into limited MOUs and MOAs
Talk to your Legal Counsel

• You don’t want to run afoul of state or federal law, so talk to your organization’s counsel about any issues/questions.
Be Person-Directed

• Keep your client’s needs AND wishes top of mind
• If your client DOES NOT want specific services or to be talked about to another party, don’t be squeamish about protecting their interests
  – Exceptions in law enforcement/criminal acts situations
Explore Your Options

• If you don’t have consent to share your client’s PII, you can still describe their functional status and needs
• Once you have a plan in the works, go back to your client to present options and get their buy-in and consent
Rules of the Road

• Discuss all professional, legal, and ethical obligations
• Some professionals may have more stringent requirements on what can be shared
• Decide as a group what your rules are, and enforce them
CONFIDENTIALITY AND APS PARTICIPATION IN MULTI-DISCIPLINARY TEAMS -
Information Sharing in the Context of MDTs

Shelly L. Jackson, PhD
Consultant, Elder Justice Initiative
US Department of Justice

NAPSA 2020
NOVEMBER 19, 2020
OPTIONS/SOLUTIONS

Obtain Written Consent
Obtain Agency Attorney Opinion
Adopt a Policy Statement
Include an MOU Provision
Allow Municipal Agencies Only
Do Not Identify the Client
Provide Written Reminders
Prohibit Note Taking
Avoid Discoverability

Take the Time
Be prepared to spend considerable time up front discussing these issues. This process takes more time than many anticipate and it may become frustrating for some members of the MDT. However, this groundwork is crucial for the functioning of the MDT.

Translating Decisions into Protocols
Eventually, your community may want to formalize decisions made about the issues discussed by writing protocols, which are documents that contain information about how the MDT is going to operate, i.e., the procedures. (For examples see the Toolkit item: Sample Protocols and Policies). Procedures describe the steps taken to complete a specific function in the day-to-day operations of the organization and are critical to well-functioning MDTs. Protocols should be somewhat flexible. Too much specificity contained in the protocols can be used against the MDT under certain circumstances.

Memorandum of Understanding (MOU) or Interagency Agreement (IAA)
Having recruited members for the MDT, many communities then use a memorandum of understanding (MOU) or an interagency agreement (IAA) to formalize the MDT.

https://www.justice.gov/elderjustice/5-ethical-legal-considerations
CONSENT TO EXCHANGE INFORMATION

I understand that different agencies provide different services and benefits. Each agency may have specific information in order to provide services and benefits. By signing this form, I am allowing agencies to exchange certain information so it will be easier for them to work together effectively to provide or coordinate these services or benefits.

(FULL PRINTING NAME OF CONSENTING PERSON OR PERSONS)

(FULL PRINTING NAME OF CLIENT)

(CLIENT'S ADDRESS) [CLIENT'S DATE] [CLIENT'S SIGN (OPTIONAL)]

My relationship to the client is: [ ] Self [ ] Parent [ ] Powers of Attorney [ ] Guardian
[ ] Other Legally Authorized Representative

I want the following confidential information about the client (except drug or alcohol abuse, diagnoses or treatment information) to be exchanged:

Yes [ ] No [ ]

[ ] Assessment Information [ ] Medical Diagnoses [ ] Educational Records
[ ] Financial Information [ ] Mental Health Diagnosis [ ] Psychiatric Records
[ ] Benefits Services Records [ ] Medical Records [ ] Criminal Justice Records
[ ] Planned, and/or Received [ ] Psychological Records [ ] Employment Records
[ ] Other Information (name...)

I want:

(NAME AND ADDRESS OF REFERRING AGENCY STAFF CONTACT PERSON)

And the following other agencies to be able to exchange this information:

Are More Agencies Listed on Back? YES [ ] NO [ ]

I want this information to be exchanged ONLY for the following purpose(s):

[ ] Service Coordination and Treatment Planning [ ] Eligibility Determination
[ ] Other (please specify)

I want information to be shared (check all that apply):

[ ] Written Information [ ] In Meetings or By Phone [ ] Computerized Data

I want to share additional information received after this consent is signed: YES [ ] NO [ ]

This consent is good until:

I can withdraw this consent at any time by telling the referring agency. This will stop the listed agencies from sharing information after they know my consent has been withdrawn.

I have the right to know what information about me has been shared, and why, when, and with whom it was shared. If I ask, each agency will show me this information. I want all the agencies to accept a copy of this form as a valid consent to share information.

If I do not sign this form, information will not be shared and I will have to contact each agency individually to give them information about me that they need.

Signature(s):

(Consenting Person or Persons)

Date:

(Person Encouraging)

Witness (if requested)

FOR AGENCY USE ONLY

CONSENT HAS BEEN:

[ ] Revoked in entirety
[ ] Partially revoked as follows:

NOTIFICATION THAT CONSENT WAS REVOKED WAS BY:

[ ] Letter (Attach Copy) [ ] Telephone [ ] In Person

DATE REQUEST RECEIVED:

AGENCY REPRESENTATIVE RECEIVING REQUEST:

(AGENCY REPRESENTATIVE'S FULL NAME AND TITLE)

(AGENCY ADDRESS AND TELEPHONE NUMBER)
Confidentiality: A Framework for SARTs

Whether the work of your SART includes active case management, case review, or systems consultation, any time case information is discussed, your members should be alert for potential confidentiality implications.

The framework below can help your SART institutionalize the practice of confidentiality in a way that facilitates multidisciplinary collaboration without breaching confidentiality or violating victim privacy.

**KNOW**
- The laws, rules, and regulations governing confidentiality

**PLAN**
- Team policies and practices around confidentiality

**PAUSE**
- Ensure discussion of case information does not breach confidentiality or violate victim privacy
Hello All, I am presenting an Older Adult Mental Health online workshop on October 29, 2020. In my career, I have seen many elderly people being taken advantage of due to their mental health status because they are an easier target. Please see more.

D.C. Bar Aging & the Law Institute - next week (9/ ...
MDT technical assistance at your fingertips

elderjustice.gov/mdt

Contact
Call or email your requests for materials or to schedule an appointment.

Talitha Guinn-Shaver
MDT Technical Advisor
US Department of Justice
202-532-5344
Talitha.J.Guinn-Shaver@usdoj.gov

MDT TAC
Learn more about the mission, services, and resources available through the MDT TAC

Network Locator Map
Request to be included in the Elder Justice Networks Locator Map

MDT Resources
Strengthen your team with resources for multiple disciplines

MDT Webinars
Keep up with MDT TAC activities.

MDT Guide & Toolkit
Start or grow a local elder abuse case review MDT with this research and resource rich toolkit

MDT Peer Support Listserv Community
Connect with and learn from other elder abuse MDTs
Welcome to the National Center on Elder Abuse
Let’s Discuss Issues Across Contexts

• What issues have you encountered?
• What have you attempted?
• What has worked, or not?
• What successes have you had?
Questions?