

Disability: Past, Present, and Future

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Language Matters

- The language we use should respect the dignity that all people deserve.
- People should not be labelled.
- New versus old
 - Intellectual disabilities, NOT “mentally retarded”
 - Person with a disability, NOT “handicapped”
 - Individual needing intensive supports, NOT “super utilizer” or “frequent flyer”

Past Practices - Institutionalization

- Large congregated settings
- Poor conditions
- Segregated
- Little privacy, limited choice or self-direction, group mentality
- Imbalance of power between residents and staff
- Limited personal relationships

Historic Changes - Deinstitutionalization

- Relocation of individuals to more integrated settings
 - Own home or family home
 - Other community-based housing (boarding homes, assisted living)
 - Group home
 - Foster/companion care
- Community supports
 - Service coordination/navigation, attendant services, habilitation, therapy, employment services, housing, transportation, financial management, advocacy
- Challenges
 - Limited community capacity
 - Limited funding for community services

Landmark Laws - Rehabilitation Act of 1973

- Replaced the Vocational Rehabilitation Act; extended grants to states for vocational rehabilitation
- Section 504 of the Rehab Act
 - Considered a civil rights law for people with disabilities
 - Provides opportunities in education, employment, and more
 - Requires reasonable accommodations

Nondiscrimination Under Federal Grants

- *Sec. 504. No otherwise qualified handicapped individual in the United States, as defined in section 7 (6), shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.*

Individuals w/Disabilities Education Act

- Initially known as PL-94-142 – Education for All Handicapped Children Act of 1975
- Gave children with disabilities the right to a free and appropriate public education (FAPE)
- Current law requires:
 - Least restrictive environment
 - Individual education plan
 - Parent participation

Americans with Disabilities Act of 1990 (ADA)

- Civil rights law that prohibits discrimination based on disability
- Similar to civil rights act of 1960s that prohibited discrimination based on race, religion, or national origin
- Title I – Employment
 - Prohibits discrimination in hiring, advancement, or discharge
 - Requires provision of reasonable accommodations (not hardship)
 - Individual must perform essential functions of the job and meet performance expectations

ADA - continued

- Title II – Public Entities (including public transportation)
 - Includes school districts, municipal, city, county, and state governments
 - Requires physical and programmatic access to services
 - Also applies to public transportation

ADA - continued

- Title III – Public Accommodations
 - Addresses “equal enjoyment” of goods, services, facilities, and any public accommodations
 - All new construction after date of the act must comply
 - Existing buildings have certain obligations for “removing barriers” (“readily achievable” standard)
 - Also provides protection for service animals
- Title IV – Telecommunications
 - Required telecommunications companies to ensure access to individuals with disabilities, especially those who live with speech and hearing challenges
- Title V – Miscellaneous Provisions
 - Specifically states that the law does not override or alter Section 504 of the Rehab Act
 - Prohibits retaliation against individuals trying to exercise their rights under the ADA

Olmstead Supreme Court Decision of 1999

- The Supreme Court held that people with disabilities have a qualified right to receive state-funded supports and services in the community rather than institutions when the following three-part test is met:
 - The person's treatment professionals determine that community supports are appropriate;
 - The person does not object to living in the community; and
 - The provision of services in the community would be a reasonable accommodation when balanced with other similarly situated individuals with disabilities.

Current Environment

- State supported living centers
 - Segregated institutions (13 in Texas)
 - Expensive
 - Political hot potatoes
- State psychiatric hospitals
- Sheltered workshops and day habilitation
- Emphasis on community living
 - Medicaid waivers
 - Long waiting lists
 - HCBS rules (CMS)
 - Community First Choice (Medicaid State Plan)

Current Environment - continued

- Managed care (STAR, STAR+Plus, STAR Kids, STAR Health)
- Local mental health authorities (LMHAs) and local intellectual/developmental disabilities authorities (LIDDAs)
- Integrated/coordinated care
 - HB 58 (83rd) – required integration of physical and behavioral health services
- Housing
 - Capacity
 - Funding
- Employment
 - Vocational rehab services moved to Texas Workforce Commission
- SSI and SSDI
 - Federally regulated

Future Challenges

- Managed care and IDD
 - Limited capacity
 - Poor history with Star Kids
 - Value-based payments
- IDD and co-occurring mental health conditions
- Aging caregivers
- Shortage of housing options
- Dwindling funding for LTSS
- Threats to entitlements – SSI, SSDI, Medicaid, Medicare
- Systemic special education challenges
- Advocacy voice is waning

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