

MRS Conference Call Notes
February 2012

Counties Participating 2/21: Camden, Caswell, Chatham, Cherokee, Columbus, Davie, Halifax, Harnett, Johnston, Lee, Lenoir, Nash, Person, Randolph, Onslow, Wake.

Counties Participating 2/22: Buncombe, Caldwell, Jackson, Lee, New Hanover, Macon, Randolph, Scotland, Stokes, Watauga, Wilkes, Wilson, Yadkin, Yancey.

Counties Participating 2/27: Alamance, Ashe, Buncombe, Clay, Currituck, Davidson, Durham, Edgecombe, Forsyth, Gaston, Haywood, Hoke, Iredell, Jackson, Lenoir, Northampton, Orange, Pasquotank, Rockingham, Swain, Union, Wake, Wilson.

Agenda

- Letters from the Division
- Confidentiality
- Reinstatement of Parental Rights

News from Raleigh

Letters:

- New On-Demand Online Course — “*Reasonable Efforts: What Supervisors Need to Know*”
- Grant announcement went out 2/20/2011 for the Children’s Trust Fund for a Community Response Program to provide Prevention Services

Confidentiality

Angie Stephenson, Asst. Atty General, and Arlette Lambert, NCDSS Policy Consultant discussed confidentiality issues. When can you get info, who can you share the info with, and how do you figure it all out!

- Important to start with the main rules of confidentiality and then look to see if there are exceptions. Web site: <http://www.sog.unc.edu/node/508>
 - N.C.G.S. §108A-80 – general confidentiality rule for social services
 - N.C.G.S. 7B §302(a1) – child protective services
 - N.C.G.S. 7B § 2901(b) – foster care records
 - 10A N.C.A.C. 70A.0113 – DSS can share information to provide protective services
- Rediscovery – need to ask: What is your role? What is the purpose of the disclosure, and what are the present circumstances?
 - See John Saxon’s handout, “Twelve Questions To Ask (And Answer) Regarding Disclosure of Confidential Information (2009, North Carolina School of Government)
 - Located at: <http://www.sog.unc.edu/node/590>
- Informed Consent:
 - Who can give informed consent? Answered in 10A N.C.A.C. 69 .0403 (client, legal guardian, DSS with custody)
 - [DSS-5297](#) the Division’s Informed Consent Form
 - Must be signed
 - Must initial which information he/she is allowing to be released
 - If person is a juvenile, the juvenile & parent must sign & initial
 - If person is an incompetent adult, both the adult and the adult’s guardian must initial and sign the consent.
 - Must be voluntary – not coerced

- Making an Individualized Decision – this is what you will have to do each time when it comes to confidentiality. Each situation is different.
- Collateral Contacts: Discussed in: [GS 7B-302\(e\)](#)
 - Exercise discretion in the selection of collateral sources in order to protect the family's right to privacy and the confidentiality of the report
 - "Need to know" basis
 - Must give pieces of information in order to get information
 - Consider generating a list of common concerns that collaterals for every case could be asked—i.e. discipline, substance use/abuse, domestic violence, supervision
- Substance Abuse Assessment & Treatment
 - Federal Regulations – 42 C.F.R., Part 2
 - Chapter VIII, Section 1428 [Confidentiality & Release of Information](#)
 - Chapter X, Section XI. Special Issues, F. Obtaining Substance Abuse Records by Court Order.
- Sensitive Records – these may include but are not limited to:
 - Psychological Evaluations
 - Medical Records
 - Therapy records
 - Address/location when Domestic Violence is Feared
 - Other personal information
- What can I share with foster parents and other placement providers?
 - Balance the foster parent's need to know with respecting the privacy of birth family.
 - Information regarding the reason for the child's placement and the needs of the child
 - Medical information (placement & as needed)
 - HIV status
 - Educational needs
 - Child's behavior
 - Permanent & concurrent plan for the child
- Why disclose?
 - Keep the child safe
 - Provide child with adequate services and treatment
 - Provide permanence & wellbeing
 - Avoid liability for you and your agency
- Case Specific Analysis – cannot stress this enough!!
 - Disclosing otherwise confidential information can benefit the children you work with.
 - Consult with your attorney as you apply the confidentiality rules and exceptions to the circumstances in your case.
 - Informed consent is BEST exception to confidentiality
 - If no consent and sharing is essential to protecting a child, consider a court order
- Worked through some actual examples and talked through the answers.

Questions/Comments:

Note from the notetaker: There were a lot of specific questions and they were not recorded here because I wanted to ensure that someone did not see something in these notes and use that to make a decision on confidentiality. As Angie stressed, *the most important thing is to make an individualized decision after reviewing the main rules and doing a case specific analysis.*

- Can you clarify management of substance abuse treatment information when a family moves to another county and the case transfers?

- There is a state rule that allows you to share information between counties, however since this is substance abuse treatment there are federal requirements so that most likely does not apply in this situation.
- GAL's have very broad powers when reviewing records – they can look at the parent's mental health information that is in the record – but not substance abuse.
 - However, Angie has heard of some counties blacking out the name of the reporter – thinks this is ok and that probably the GAL organization would be ok with that – they do not need to know this. And if they do, they could go to court with a more specific request.
 - Remember that although GAL's have legal access to a lot of information, they are bound to keep that information confidential as well.

For questions later or in relation to a specific situation in your county you can contact Angie and Arlette at: Angie.stephenson@dhhs.nc.gov or Arlette.lambert@dhhs.nc.gov

Reinstatement of Parental Rights

Teresa Strom, NCDSS Policy Consultant talked about some important legislation regarding the reinstatement of parental rights of policy that will cover this, one will go in Section 1201, and the other in Chapter X.

- Located in Statute §7B-1114
- Reinstatement of Parental Rights (RPR) became a permanency option when G.S. § 7B-1114 went into effect October 1, 2011. Circumstances that would allow this permanency option are very narrow.
- **Only** the youth, the department of social services or the youth's guardian ad litem attorney advocate may file a motion to reinstate parental rights. Three conditions must be met in order to consider filing a motion for RPR:
 - The youth is at least 12 years of age or *if under age 12, extraordinary circumstances exist that warrant consideration of reinstatement of parental rights;*
 - The youth does not have a legal parent, is not in an adoptive placement, and is not likely to be adopted within a reasonable time period; and
 - The order terminating parental rights was entered at least 3 years prior *unless* the youth's plan is no longer adoption.
- Two sections of policy that will cover this, one will go in Section 1201, and the other in Chapter X
- The decision to file for reinstatement of Parental Rights can only come from the Youth, the Guardian ad litem or DSS. (Since the parents have had TPR, they are not a party to the case at the current time.)
- Questions for the youth and their team to consider when RPR is an option:
 - What efforts have been made to achieve adoption or find a permanent guardian? Has the agency actively worked toward other permanency plan options?
 - Has the former parent remedied the conditions that led to the youth's removal and placement in foster care and subsequent termination of parental rights? What specifically has changed? What evidence is there that the change will continue? Would the changed circumstances continue even if the former parent were to lose an existing support system?
 - Will the youth receive appropriate care and supervision with the former parent?

- How mature is the youth and is the youth able to express their preference? Is there any reason to believe that the youth is receiving pressure from the former parent to choose this plan?
- Is the former parent willing to resume contact with the youth and have rights reinstated?
- Is the youth willing to resume contact with the former parent and have rights reinstated?
- What services would the former parent and youth require to succeed if rights are reinstated? Will therapy be required and will access to it be available, including insurance and transportation needs? What services would no longer be available when the youth is no longer in custody?
- Would this plan support the best interests of the youth? What LINKS services would still be available to the youth? Would the former parent and the youth be open to those services, if in the youth's best interest? What benefits might the youth have been counting on for their education? See <https://www.statevoucher.org/> and <http://www.ncreach.org/index.php>. Will the youth have health insurance?
- Would the youth be able to maintain current meaningful connections, including those with siblings? Does the youth have an ongoing relationship with any sibling? How is the connection supported? If the sibling was adopted, will the adoptive parent(s) be open to continuing the relationship that might include their adoptive child's former parent? If transportation is key to continuing the relationship, is it accessible? Will the sibling want to continue the relationship if it includes the former parent. Will there be new family dynamics to work through for the connection to continue? What are the other meaningful connections that the youth has and how will they be impacted?
- We are not the first state to do this, Teresa has an article comparing the different states that offer this and what is different about each state.

Questions/Comments:

- Chatham has already used this with a 15 year old child.
- How does this affect child support? The parent is not responsible for child support from the time of the TPR until the reinstatement, but it does not eliminate arrears.
- One county wondered if the eligibility for NC-REACH would be re-examined (foster youth either aged out or was adopted after age 12)? Not sure, but can discuss with Danielle (LINKS coordinator).

March Calls

- Will be discussing Signs of Safety with Catawba and Buncombe Counties
- Tentative dates: March 20, 21, and 23rd. Email will be coming out with final confirmation of dates!