



## Balancing Rights and Safety during Covid-19

# Learning Objectives



Acknowledging the now

Keeping the balance of important to and important for in these unique times

Somethings have stayed the same – 245D still in effect with rights protections

DHS Licensing guidance based on what they are seeing

## Acknowledging the now



## 245D.04, subdivision 3: Protection-Related Rights

Be free from restraint, seclusion, restrictive intervention, or other procedure identified in 245D.06, subdivision 3

In a residential setting:

Use of and free access to common areas in the residence and the freedom to come and go from the residence at will

Choose the person's visitors and time of visits and have privacy for visits with the person's spouse, next of kin, legal counsel, religious advisor, or others, in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's bedroom

# Some rights may be restricted

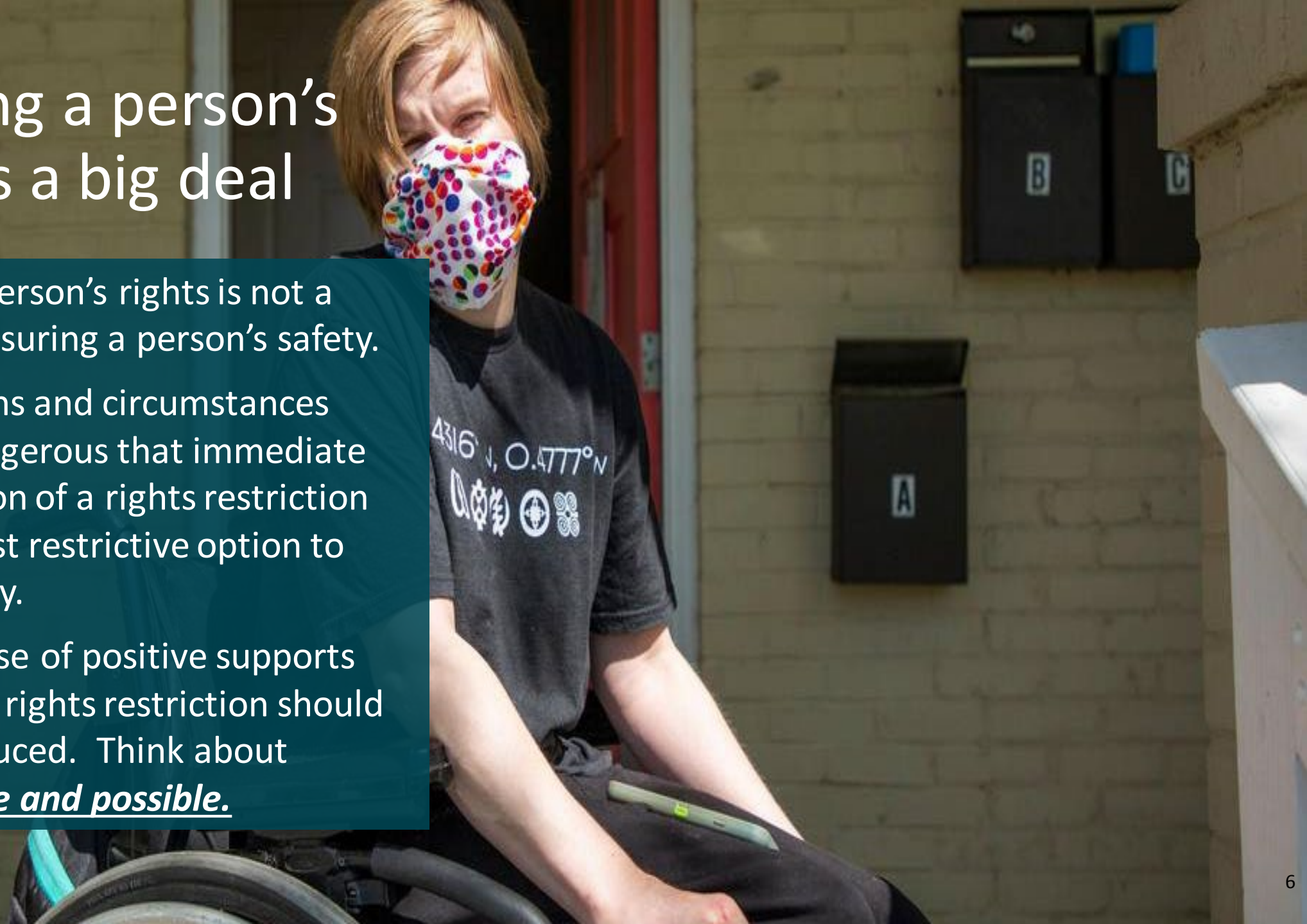
- ONLY if determined necessary to ensure the health, safety, and well-being of **the person** based on an assessment of **the person's** vulnerability related to exercising the right without restriction
- MUST be **implemented** in least restrictive alternative manner necessary to protect **the person** and provide support to reduce or eliminate the need for the restriction in the most integrated setting and inclusive manner



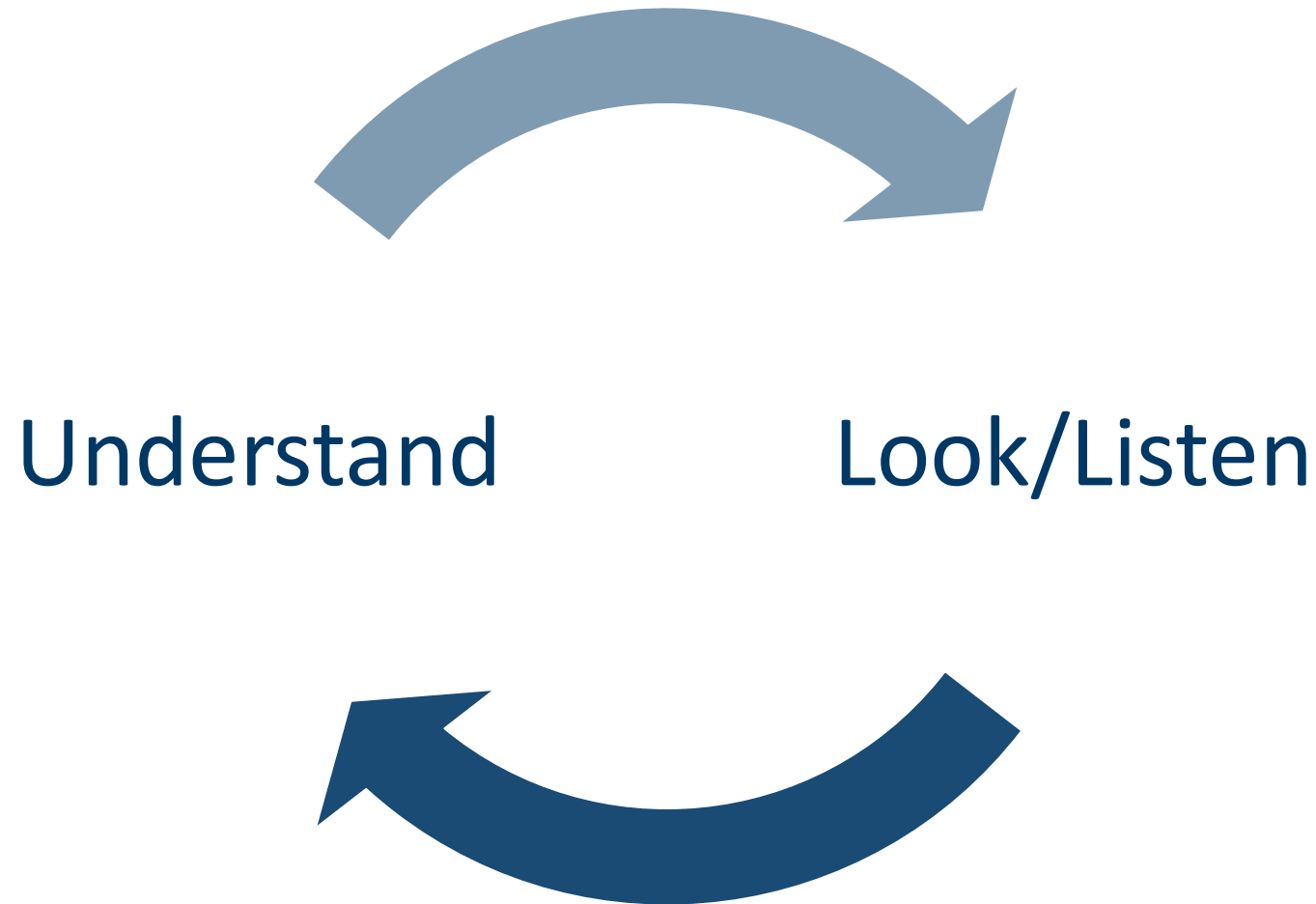


# Restricting a person's rights is a big deal

- Restricting a person's rights is not a first step to ensuring a person's safety.
- Some situations and circumstances may be so dangerous that immediate implementation of a rights restriction is the best least restrictive option to restoring safety.
- Through the use of positive supports the need for a rights restriction should be greatly reduced. Think about what's **positive and possible.**



What you see/hear depends on what you are  
looking/listening for



# 245D.07, subdivision 1a: Person-Centered Planning and Service Delivery

Person-centered service planning and delivery that:

- Identifies and supports what is important to the person as well as what is important for the person
- Uses that information to identify outcomes the person desires
- Respects each person's history, dignity, and cultural background

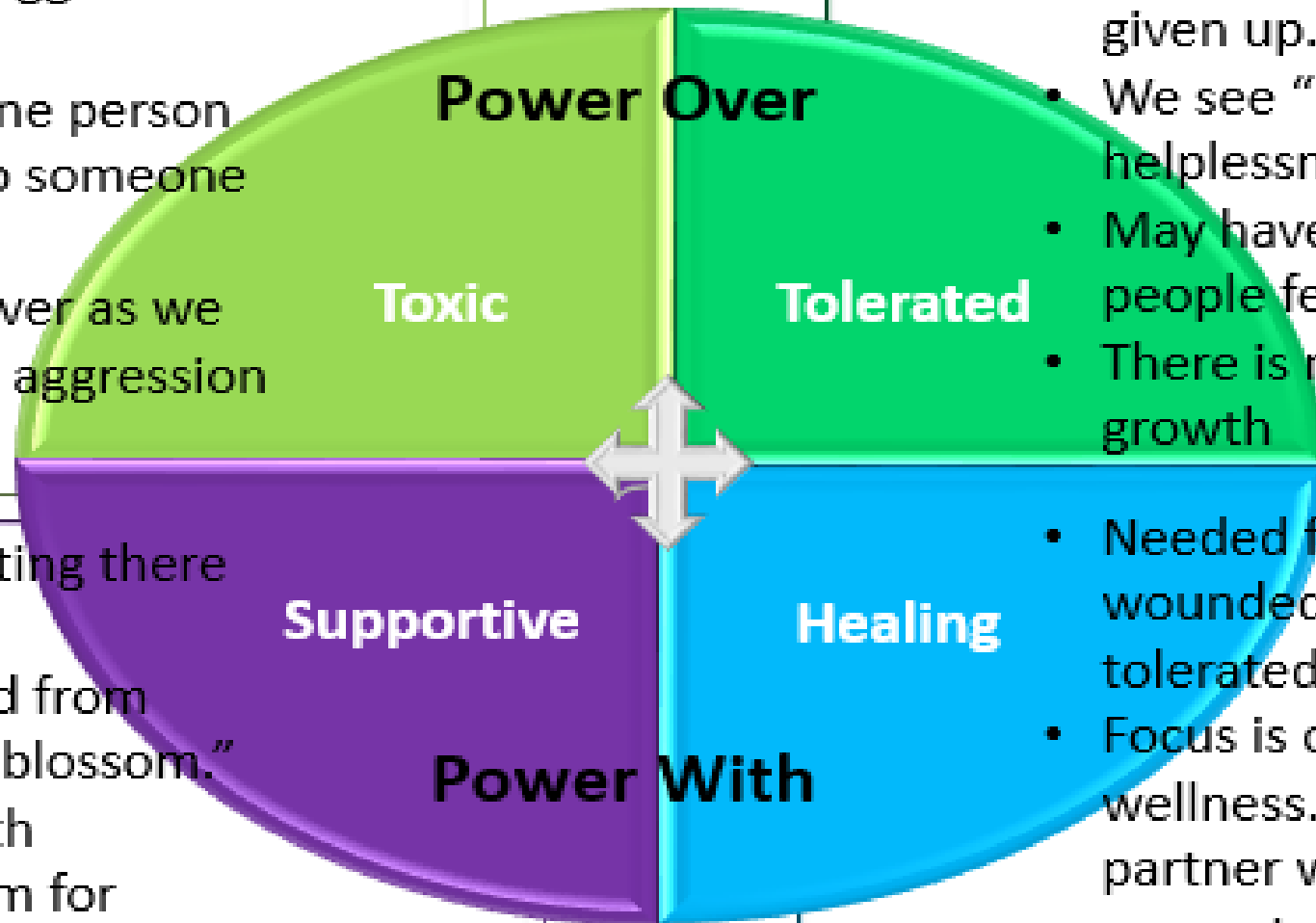
Self-determination that supports and provides:

- Opportunities for the development and exercise of functional and age-appropriate skills, decision making and choice, personal advocacy, and communication
- The affirmation and protection of each person's civil and legal rights.



# Importance of environments


- Causes significant aggression or depression.
- What is toxic to one person may not be toxic to someone else
- Results in Power Over as we try and control the aggression or withdrawal



- People are depressed, have given up.
- We see “learned helplessness”
- May have been toxic but people feel powerless
- There is no (or very little) growth

- In a supportive setting there is growth.
- People have moved from toxic or tolerated “blossom.”
- There is Power With
- This is the minimum for everyone.

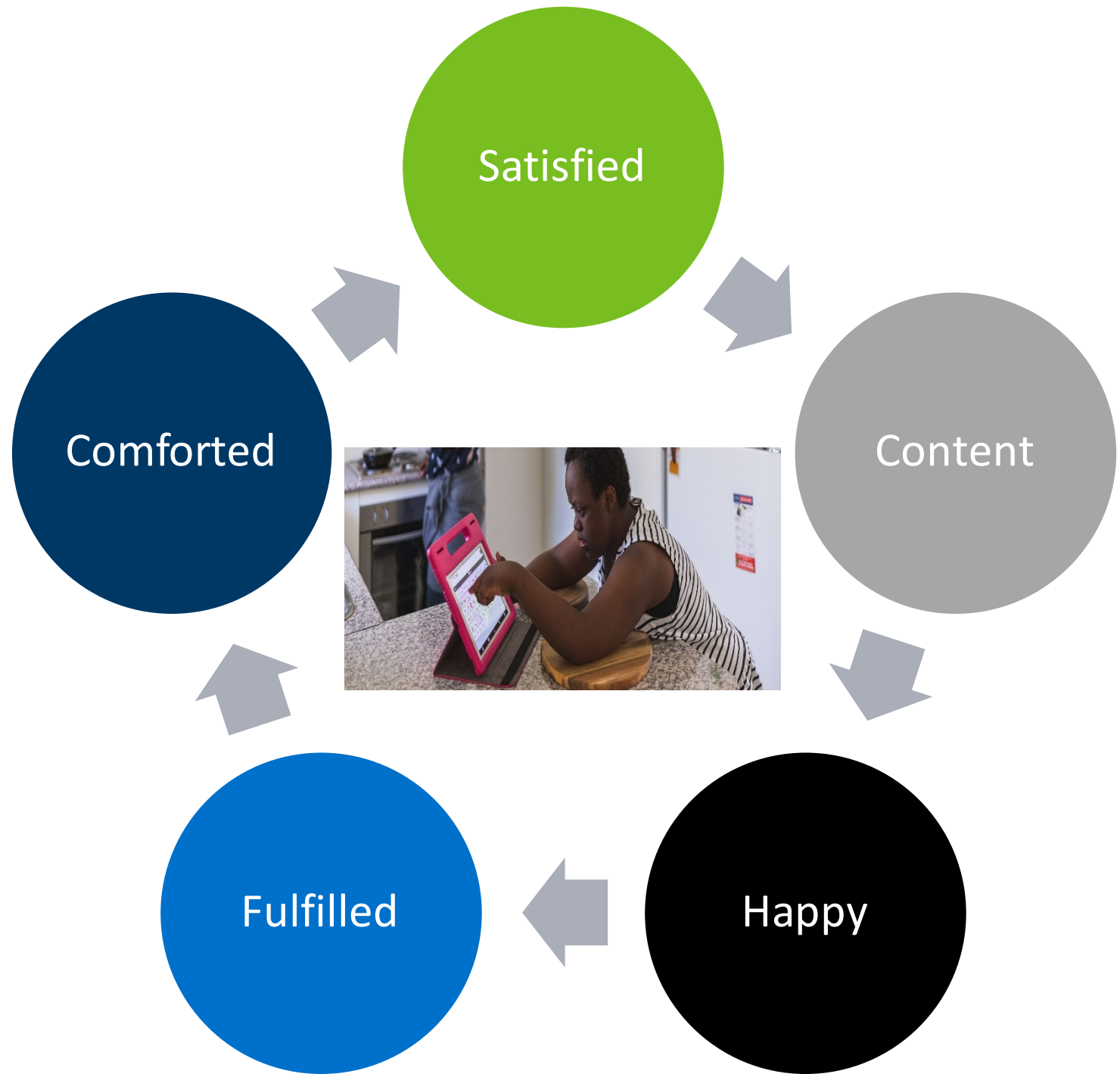
- Needed for some people wounded by toxic or tolerated settings
- Focus is on restoration and wellness. There is a need to partner with clinical supports



# Connection of Important To and Important For and Balance

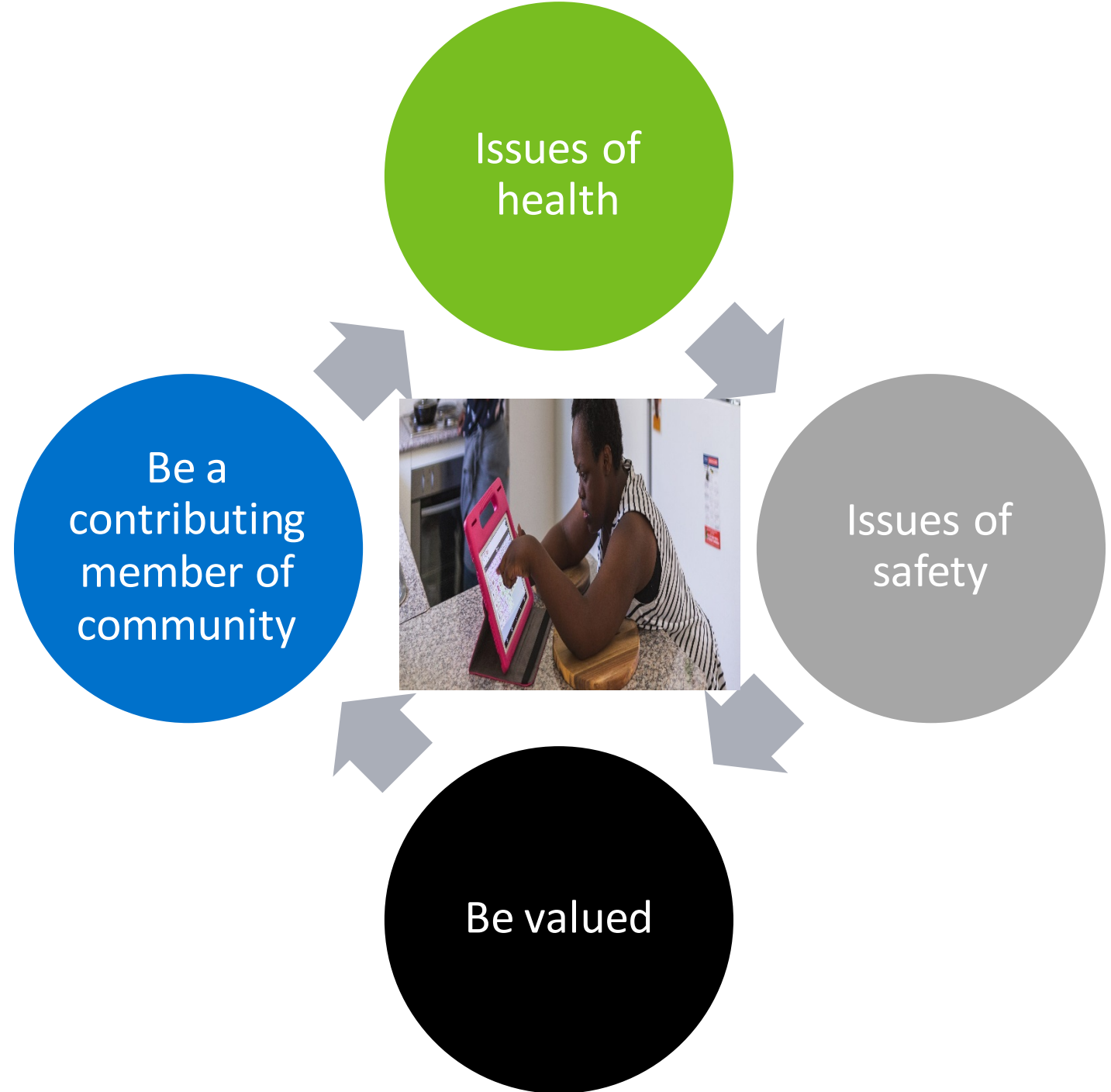
# Important To a Person

What is important to a  
person includes those things  
in life which help us to be...

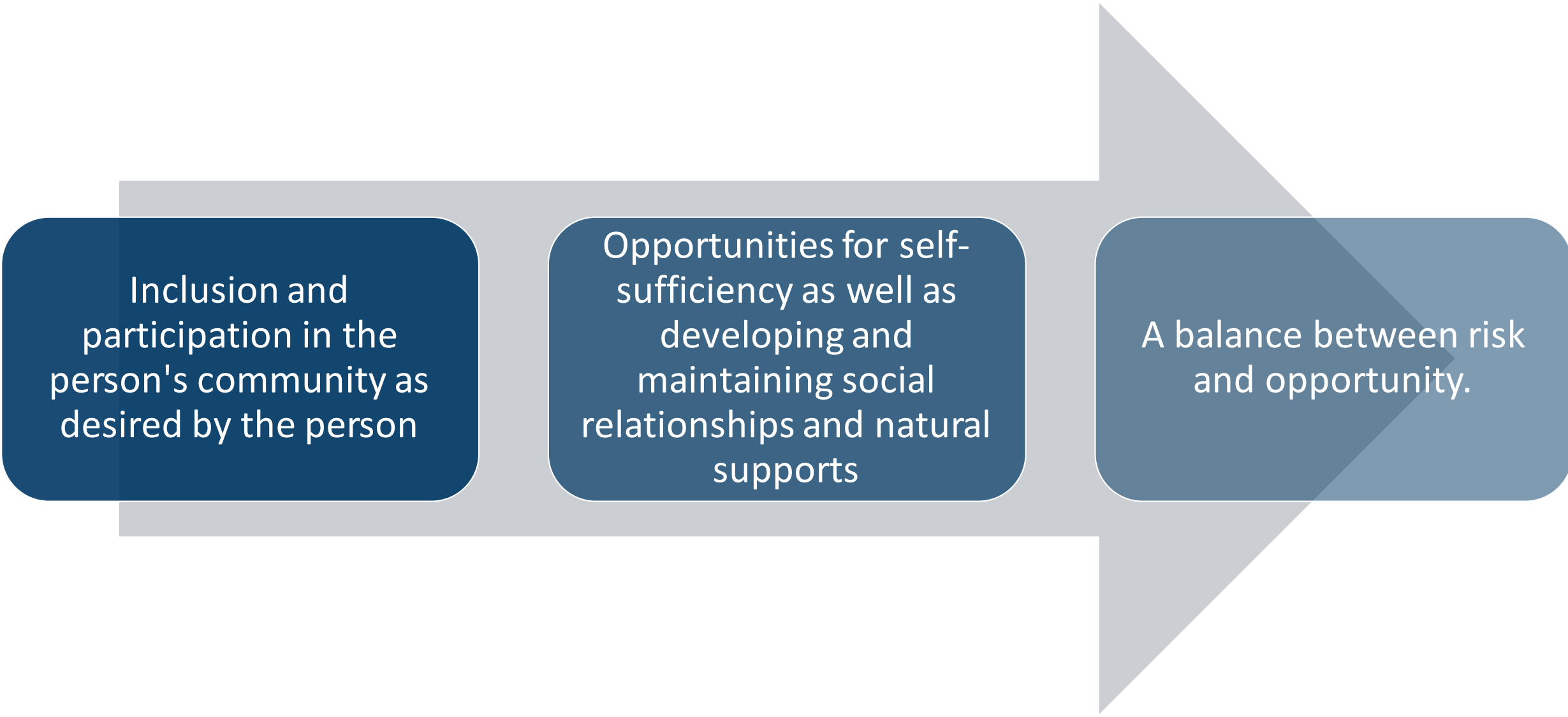


# Important For a Person

What is important for a person includes those things in life which help us to be...



Providing the most integrated place and inclusive service delivery that supports, promotes, and allows:



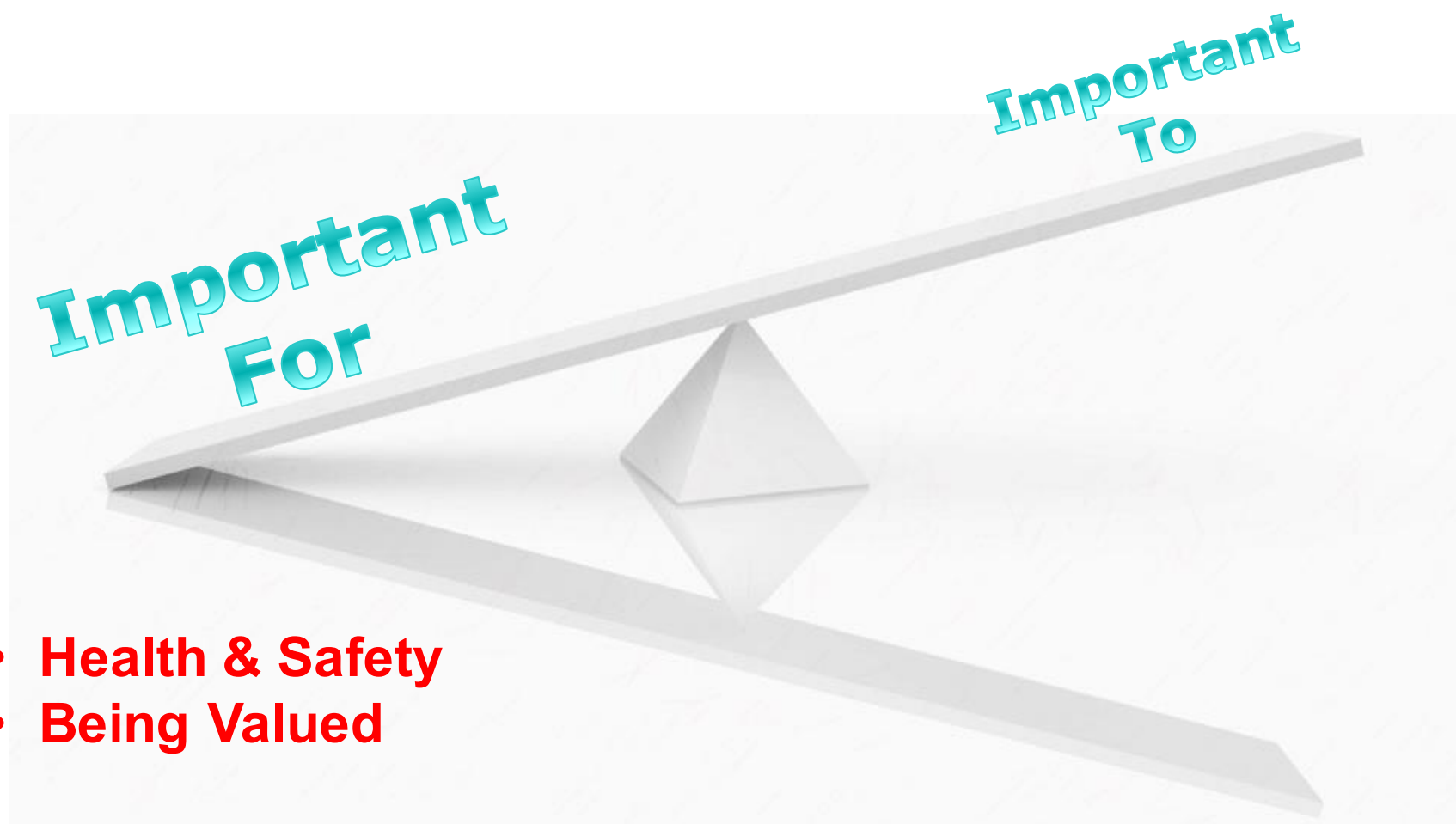
Inclusion and participation in the person's community as desired by the person

Opportunities for self-sufficiency as well as developing and maintaining social relationships and natural supports

A balance between risk and opportunity.



# Health & Safety Dictate Lifestyle





Services must be  
provided in a  
manner that  
supports the  
person's

Daily Needs

Activities and  
accomplishments

Preferences

# Got positive supports?

## Support strategies and practices that are:

- Person-centered and respectful
- Culturally sensitive
- Evidence-based
- Prevention-focused
- Adapted and improved over time
- Often implemented together
- Used across the life span



# Taking team learning and putting it into action

- For each thing important to the person is the following in place:
  - People know what to do to support the person
  - People know what to do when supporting the person and keeping them healthy and safe.
  - What else needs to be figured out?
  - A responsible person has been identified with due dates.



# Common Concerns

- Relationships and visitors
- Working
- Coming and going at will
- Informed consents and waivers
- Program policies and procedures
- Rules or guidelines imposed on persons served (masks, handwashing, showering, washing clothes)
- Service termination





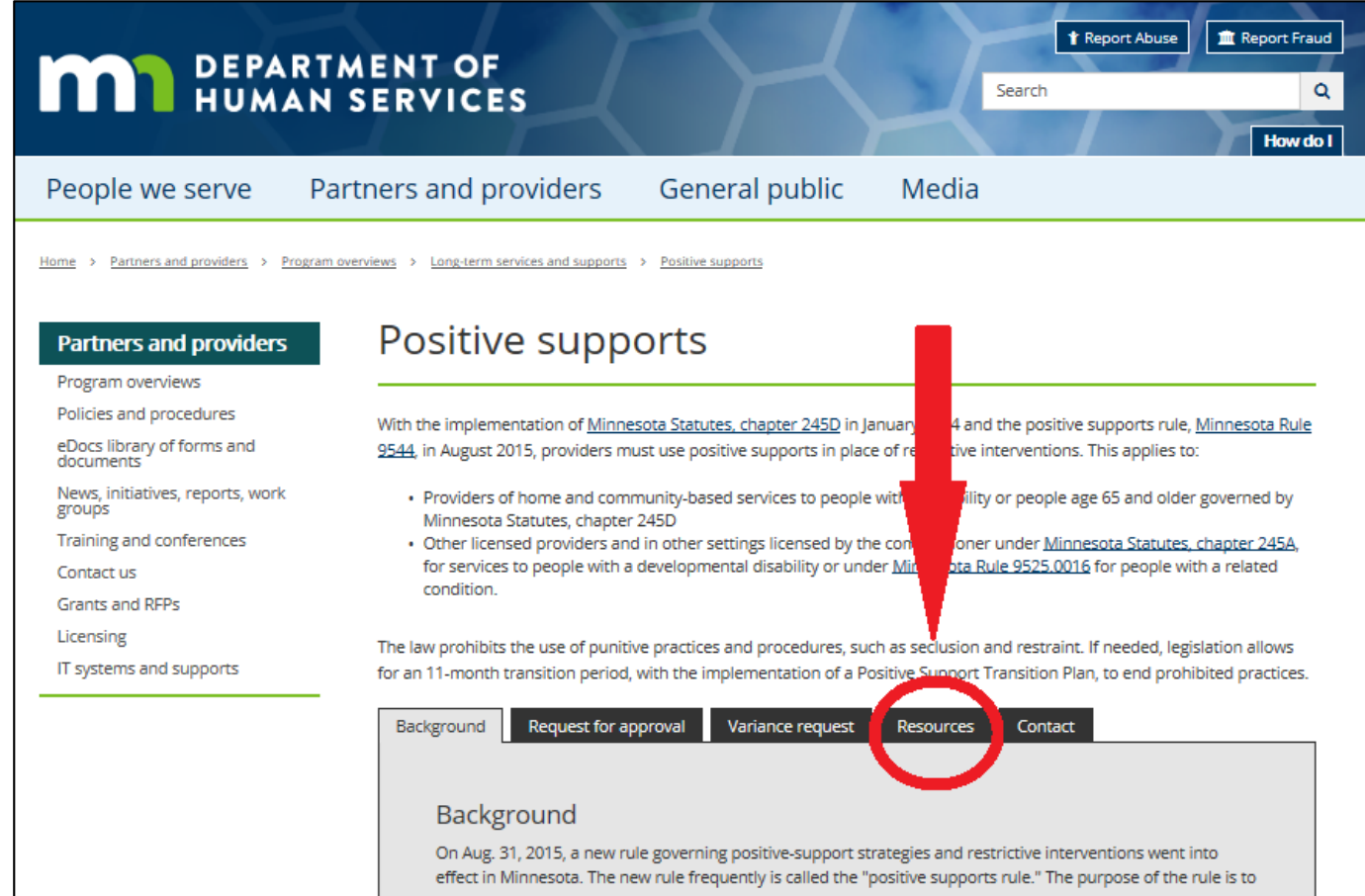


# Resources

# Resources: DHS positive supports webpage

The [DHS Positive Supports webpage](#) includes resources for:

- Developing positive support strategies
- Examples for functional behavior assessments
- Training resources
- Links for finding onsite help from other professionals
- Links to related forms and laws



The screenshot shows the DHS Positive Supports webpage. The header includes the DHS logo, navigation links for 'Report Abuse' and 'Report Fraud', a search bar, and a 'How do I' link. The main navigation bar lists 'People we serve', 'Partners and providers', 'General public', and 'Media'. The breadcrumb trail indicates the current location: Home > Partners and providers > Program overviews > Long-term services and supports > Positive supports. The left sidebar under 'Partners and providers' lists various resources like 'Program overviews', 'Policies and procedures', 'eDocs library of forms and documents', 'News, initiatives, reports, work groups', 'Training and conferences', 'Contact us', 'Grants and RFPs', 'Licensing', and 'IT systems and supports'. The main content area is titled 'Positive supports' and contains text about the implementation of Minnesota Statutes, chapter 245D and Minnesota Rule 9544. A red arrow points to the 'Resources' tab in the bottom navigation bar, which is also circled in red. The 'Background' tab is currently selected, showing text about the new rule governing positive-support strategies and restrictive interventions.

**DEPARTMENT OF HUMAN SERVICES**

Report Abuse Report Fraud

Search

How do I

People we serve Partners and providers General public Media

Home > Partners and providers > Program overviews > Long-term services and supports > Positive supports

**Partners and providers**

- Program overviews
- Policies and procedures
- eDocs library of forms and documents
- News, initiatives, reports, work groups
- Training and conferences
- Contact us
- Grants and RFPs
- Licensing
- IT systems and supports

## Positive supports

With the implementation of [Minnesota Statutes, chapter 245D](#) in January 2014 and the positive supports rule, [Minnesota Rule 9544](#), in August 2015, providers must use positive supports in place of restrictive interventions. This applies to:

- Providers of home and community-based services to people with a developmental disability or people age 65 and older governed by Minnesota Statutes, chapter 245D
- Other licensed providers and in other settings licensed by the commissioner under [Minnesota Statutes, chapter 245A](#), for services to people with a developmental disability or under [Minnesota Rule 9525.0016](#) for people with a related condition.

The law prohibits the use of punitive practices and procedures, such as seclusion and restraint. If needed, legislation allows for an 11-month transition period, with the implementation of a Positive Support Transition Plan, to end prohibited practices.

Background Request for approval Variance request **Resources** Contact

### Background

On Aug. 31, 2015, a new rule governing positive-support strategies and restrictive interventions went into effect in Minnesota. The new rule frequently is called the "positive supports rule." The purpose of the rule is to



# Resources: additional DHS webpages

- [Jensen Settlement: Successful Life Project](#) (see “Resources” then “Successful Life Project” section)
- [DHS Person-Centered Practices](#)

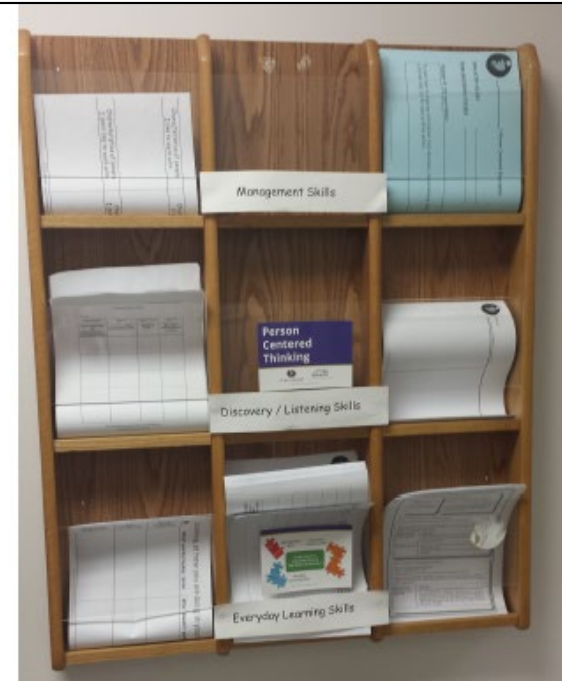
## Planning facilitators

To find a facilitator near you, see the [Regional listing of available person-centered planning facilitators \(XLS\)](#). If you don't know which region you live in, see the map on the [Regional Resource Specialist \(RRS\) Geographic Area eDoc](#). To help you find a good match, see [Questions to ask potential facilitators](#). Person-centered planning facilitators who would like to be added to this list or update their information may fill out this [online form](#).

# Resources: other positive support webpages

- [Home and Community Positive Behavior Support Network](#)
- [Positive Supports Minnesota](#)

**Easy Access to Person-Centered Tools**



# Resources: people

## Professionals in your area

- Statewide directory of services: [MinnesotaHelp.Info](https://www.minnesotahelp.info) (use the search term “Positive Support Services”)
- [Directory of Board Certified Behavior Analysts](#)

## Crisis and residential services from DHS

- [Referral process for Community-Based Services \(CBS\)](#)

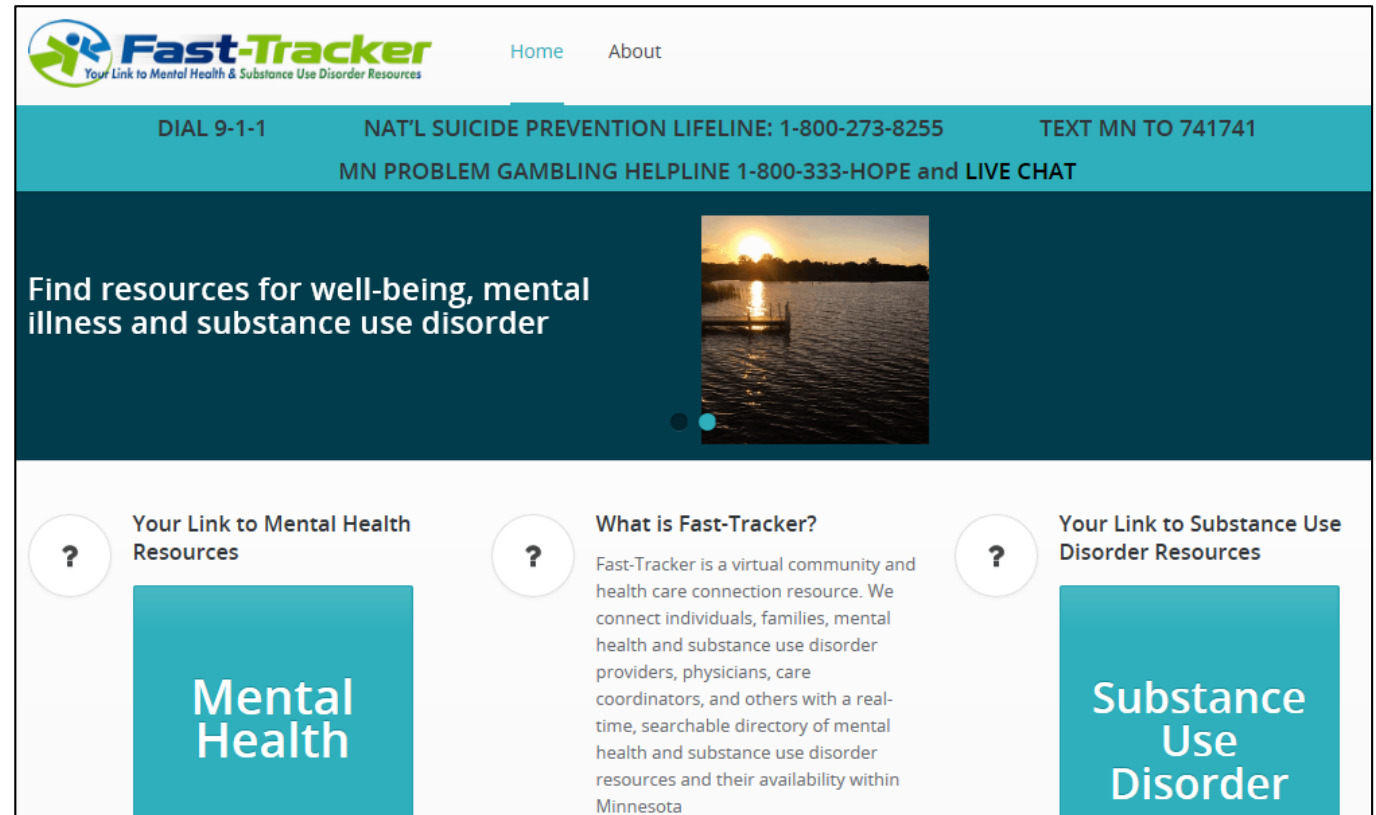


# Resources: mental health professionals

## Mental health resources

### Fast-Tracker

- Connect with specialists
- Find resources for mental illness, well-being, and substance use disorder
- Learn about community programs



# Resources: community

Use this site to find support from

[Cultural Consultants: Promoting Cultural Awareness](#)



# Resources: manual on positive supports

## DHS Positive Supports Manual

- Includes things to consider when approaching problematic behaviors
- Provides survey, assessment, and data tools
- Contains a glossary of non-restrictive (allowed) techniques that can be used to reduce problematic behaviors

### Appendix M: Setting Events Checklist

Adapted from the [Escambia County School District Settings Events Checklist \(PDF\)](http://www.escambia.k12.fl.us/pbis/data/FBA/SETTING%20EVENTS%20CHECKLIST.pdf)  
<http://www.escambia.k12.fl.us/pbis/data/FBA/SETTING%20EVENTS%20CHECKLIST.pdf>

Person receiving supports and services:		Person completing checklist:		
Interfering/Target behavior:		Date:		
Instructions: The list below includes events that could possibly increase the likelihood of an interfering or target behavior occurring. If an event contributes to the person's behavior, check the appropriate column to indicate when the event occurs in relation to when it contribute to the behavior. For longstanding influences, note only those that contribute to the current incident or behavior.				
Setting Event (by type)	Same Day	Day Before	Within Week	Long Standing
Physical				
Meal time change or meal missed				
Sleep pattern (including duration) atypical				
Medications changed or missed				
Appeared or complained of illness				
Appeared or complained of discomfort				
Allergy symptoms				
Seizure				
Chronic health condition				
Other (specify):				
Learning and self-regulation				
Specific disability (specify):				
Learning difficulties (specify):				
Short attention span				
Poor organizational skills				
Anger management problems				
Atypical sensory needs				
Other (specify):				
Social-emotional				
Anxious				
Irritable or agitated				
Depressed, sad or blue				
Experienced disappointment				
Refused a desired object or activity				
Reprimanded				



# Resources: manuals

This is a handy, brief [workbook](#) for people to share what's important to them

**I** I know me.

Everyone has hopes and dreams. Take a few minutes to think about your life, what you want and what's important to you. Then, share your ideas with those who support you. Together, you can take steps to reach your goals.

**My strengths**

Things I'm good at \_\_\_\_\_

Things I'm proud of \_\_\_\_\_

Nice things people say about me \_\_\_\_\_

**My trusted people**

Family \_\_\_\_\_

Friends and neighbors \_\_\_\_\_

Paid supports \_\_\_\_\_

At work or school \_\_\_\_\_

**My home**

What I like about where I live \_\_\_\_\_

# Resources: training

- [College of Direct Support](#)
- [TrainLink](#)
- [DHS training news and upcoming information](#)
- [DHS training archive](#)

# Resources: updates from DHS

Sign up for email updates on the [DHS Positive Supports webpage](#).  
To sign up...

- Go to the tab titled “Resources”
- Scroll to the bottom
- Enter your information where it says “Email Address”

[Subscribe to receive email updates on other DHS topics](#)

Important to the Person	What people need to know or do to support the person with this	What people need to know or do to keep the person healthy and safe while supporting the person with this	What else needs to be figured out?	Who is responsible for making this happen? By when?
People to be with/relationships:	Person Does: Staff Does:	Person Does: Staff Does:	Person's Perspective: Staff Perspective: Family Perspective: Other Perspectives:	Name/s: Date:
Status and Control:	Person Does: Staff Does:	Person Does: Staff Does:	Person's Perspective: Staff Perspective: Family Perspective: Other Perspectives:	Name/s: Date:
Things to do and Places to go:	Person Does: Staff Does:	Person Does: Staff Does:	Person's Perspective: Staff Perspective: Family Perspective: Other Perspectives:	Name/s: Date:
Rituals and Routines:	Person Does: Staff Does:	Person Does: Staff Does:	Person's Perspective: Staff Perspective: Family Perspective: Other Perspectives:	Name/s: Date:
Rhythm or pace of life:	Person Does: Staff Does:	Person Does: Staff Does:	Person's Perspective: Staff Perspective: Family Perspective: Other Perspectives:	Name/s: Date:
Things to have:	Person Does: Staff Does:	Person Does: Staff Does:	Person's Perspective: Staff Perspective: Family Perspective: Other Perspectives:	Name/s: Date:

Any additional questions?



# Thank You!

**245D Help Desk 651-431-6624**

**DHS Disability Services Division**

**[PositiveSupports@state.mn.us](mailto:PositiveSupports@state.mn.us)**