Minnesota Department of Human Services

Rule 40 Advisory Committee Meeting
Handout Table of Contents
July 9, 2012, 9:00-3:30
540 Cedar Street, Room 2370

Minnesota Department of **Human Services**

Rule 40 Advisory Committee
Elmer L. Andersen Building, Room 2370
July 9, 2012
Agenda

I. Opening (9:00-9:15) A. Introductions B. Agenda review and handouts (Handout 1)	Gail Dekker
II. Review of settlement agreement	Mike Tessneer
III. Purpose and scope	Alex Bartolic
IV. Chemical and Mental Health Administration (9:45)	Maureen O'Connell
V. Discuss timeline a. Work groups (Handout 2)	Alex Bartolic
VI. BREAK (10:15-10:30)	
VII. Presentation on staff training at Cambridge (Handouts 3-11)	Natalie Marr
VIII. Continue discussion and recommendations on positive techniques and person-centered planning – Positive Support Strategy A. Response to rule discussion draft (Handout 12)	Committee
IX. Continue discussion and recommendations on prohibited techniques A. Response to rule draft (Handout 12)	Committee
X. LUNCH (12:15-1:00)	
XI. Begin discussion on types of emergency restraints	Committee
XII. Begin discussion on monitoring/reporting/oversight/etc.	Committee
XIII. BREAK (2:15-2:30)	

XIV. Begin discussion on training — Committee

XV. Closing — Gail Dekker

A. Meeting evaluation: What worked well for this meeting? What would you suggest to improve for future meetings?
B. Future meeting agenda items: What do you suggest?
C. Next meeting: August 6, 9:00-3:30, Lafayette room 3148

Work group meeting options: Name_____

1. Choose which work group topics you would like to attend.
2. Please mark an "X" for **all** times you are available under **only** the work group topics you wish to attend.
3. Final meeting dates that work out best will be determined and sent out to the committee members.
4. You may attend any work group meeting even if you did not initially express an interest in attending. Please notify Suzanne in advance if possible to ensure adequate space or if you would like to attend by telephone.

1. Positive support strategies

	Mon, July 16, 1-3pm	Fri, July 20, 1-3pm		
Meeting 1				
	Mon, July 23, 1-3pm	Thurs, July 26, 10-noon	Fri, July 27, 1-3pm	
Meeting 2				

2. Emergency use of restraint

	Mon, July 16, 10 am-noon	Mon, July 16, 1-3pm	Thurs, July 19, 1-3pm	Fri, July 20, 10am-noon
Meeting 1				
	Mon, July 23, 1-3pm	Tue, July 24, 10-noon	Thurs, July 26, 1-3pm	Fri, July 27, 10am-noon
Meeting 2				

3. Person-Centered Planning

	Mon, July 16, 10-noon	Mon, July 16, 1-3pm	Fri, July 20, 10-noon	Fri, July 20, 1-3pm
Meeting 1				
	Tue, July 24, 10-noon	Thurs, July 26, 10-noon	Fri, July 27, 10-noon	Fri, July 27, 1-3pm
Meeting 2				

4. Monitoring/reporting/oversight/metrics

	Wed, Aug. 15, 10-noon	Thurs, Aug. 16, 1-3pm		
Meeting 1				
	Mon, Aug. 27, 1-3pm	Wed, Aug. 29, 1-3pm	Thurs, Aug. 30, am or pm	Fri, Aug. 31, am or pm
Meeting 2				

5. Training

	Tues, Aug. 14, 1-3pm	Wed, Aug. 15, 1-3pm	Thurs, Aug. 16, 1-3pm	Fri, Aug. 17, 10-noon
Meeting 1				
	Wed, Aug 22, 1-3pm	Wed, Aug. 29, 1-3pm	Thurs, Aug. 30	Fri, Aug. 31
Meeting 2				

6. Implementation

	Tues, Aug. 14, 1-3 pm	Wed, Aug. 15, 1-3 pm	Thurs, Aug. 16, 1-3 pm
Meeting 1			
	Wed, Aug. 29, 1-3 pm	Thurs, Aug. 30, 10-12pm or 1-3pm	Fri, Aug. 31, 10-12pm or 1-3pm
Meeting 2			

Settlement Trainings

1. **Therapeutic Interventions**: These are techniques that are used every day to promote a therapeutic environment, including the following elements: Connecting, Understanding, Awareness of Self, Awareness of Others, Awareness of the Environment, and Safety
   - December 2010/January 2011 — 4 hours
   - May/June 2011 — 4 hours
   - December 2011 — 4 hours

2. **Personal Safety Techniques**: A variety of techniques used in volatile and unsafe situations as a means to attain safety with the least amount of intrusiveness, including training the following areas: Balance, Movement, Disengagement, Engagement, Escorts, Approved Restraints (see attachment on Approved Techniques for MSHS Cambridge and its Successor facilities).
   - December 2010/January 2011 — 4 hours
   - May/June 2011 — 4 hours
   - December 2011 — 4 hours

3. **Medically Monitoring Restraint:** Training to observe and understand how to physically monitor an individual while he/she is being restrained, in order to minimize risk of medical impact of restraint use. The training was developed by a Registered Nurse has qualified medical staff as instructors.
   - November/December 2011 — 2 hours

4. **Post Crisis Evaluation and Assessment/Critical Action Review of Experience:** Training on Critical Action Review of Experience (or CARE reviews). The course teaches how to evaluate the circumstances that resulted in a restraint, allowing staff to learn more about the client and make modifications to programming to prevent future unsafe situations for that individual. It also provides information to the program on system, process, or training issues that may need revision, modifications, or updates.
   - January – March 2012 — 4 hours

5. **Person Centered Thinking:** Two days of certified instructor led training, focused on changing perspectives to balanced support between what is "important to" a person and what is "important for" a person, and changing thinking from fixing what is wrong with a person to supporting each person's opportunities to live an everyday life.
   - January – March 2012 — 16 hours
     - Two 8 hour classroom days with practice during class
     - Ongoing support by the peer coaches and leadership infrastructure

6. **Positive Behavior Support**: Training to expand staff persons understanding of the difference between behavior modification and Positive Behavior Support. The course teaches how to identify potential factors influencing behavior, how to use at least one behavior data collection method, and how to conduct a simple functional behavior assessment.
   - November/December 2011 — 24 hours
     - Two 8 hour classroom days with one 8 hour On the Job Training day

Other Trainings

1) **"Positive Behavior Support" training through the College of Direct Support (http://directcourseonline.com/directsupport/)**: This seven-part course was created to help direct support

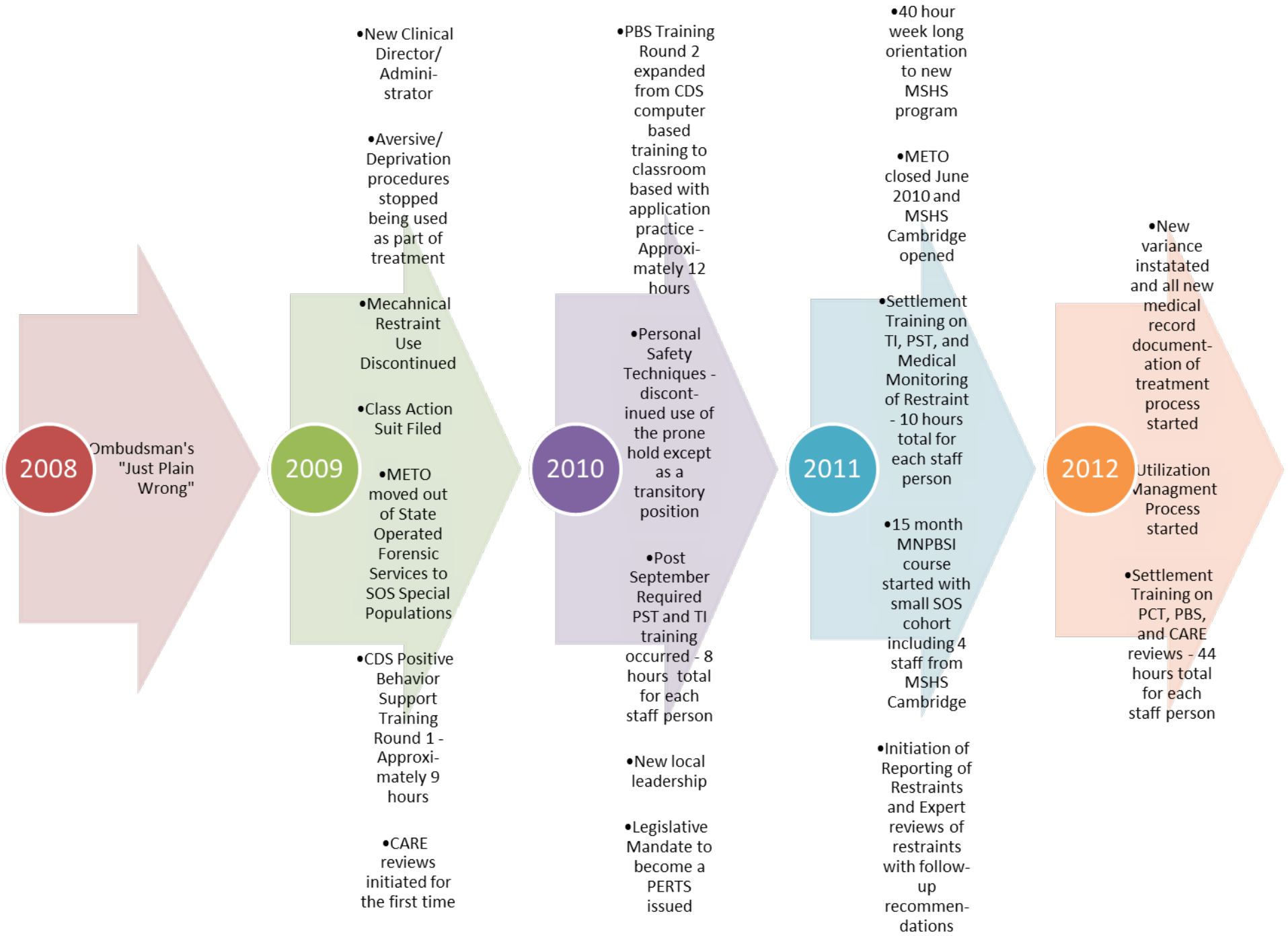
professionals to learn to better support people who may engage in challenging behavior. The curricula encourages learning safe, fair, and compassionate strategies that help to reduce and even prevent these behaviors. The following areas are covered as part of the training: Understanding Behavior, Functions and Causes of Behavior, Understanding Positive Approaches, Preventing Challenging Behavior, Responding to Challenging Behavior, Behavior Support Plans, and Rules, Regulations, Policies and Rights.

- Summer 2009 Approximately 9 hours

2) **College of Direct Supports "Positive Behavior Support" curricula expanded to classroom version**: Presented by clinically trained staff in a classroom setting: The course followed the CDS computer based training, presented by clinically trained staff in a classroom setting.
   - Summer of 2010 Approximately 12 hours plus

3) **Minnesota Positive Behavior Support Initiative (http://rtc.umn.edu/mnpbsi/main/):** A 15 month course (approximately) designed to build the capacity of direct support professionals to complete functional behavioral analyses and associated program plans that incorporate positive behavior supports in a person centered planning format.
   - Approximately 15 months of intense training
   - 8.5 hours per week of studies and assignment work
   - One 8 hour classroom session per month
   - Ongoing access to an expert acting as a mentor

It should be noted that there was 9 hours of computer based training on PBS in the summer of 2009 and 12+ hours of training that combined the computer based training with classroom courses on PBS in the summer of 2010. In addition, there was an additional 40 hours of training in June of 2011 to all staff at the MSHS Cambridge program to prepare them for the changes to the program once METO closed and MSHS Cambridge began. This brings the Grand Total of training hours to 122, with 102 between September 2010 and March 2012, and 94 of those hours occurring between June 2011 and March 2012.


2008
Ombudsman's "Just Plain Wrong"
2009
•New Clinical Director/ Admini-strator
•Aversive/ Deprivation procedures stopped being used as part of treatment
•Mecahnical Restraint Use Discontinued
•Class Action Suit Filed
•METO moved out of State Operated Forensic Services to SOS Special Populations
•CDS Positive Behavior Support Training Round 1 - Approxi-mately 9 hours
•CARE reviews initiated for the first time
2010
•PBS Training Round 2 expanded from CDS computer based training to classroom based with application practice - Approxi-mately 12 hours
•Personal Safety Techniques - discont-inued use of the prone hold except as a transitory position
•Post September Required PST and TI training occurred - 8 hours total for each staff person
•New local leadership
•Legislative Mandate to become a PERTS issued
2011
•40 hour week long orientation to new MSHS program
•METO closed June 2010 and MSHS Cambridge opened
•Settlement Training on TI, PST, and Medical Monitoring of Restraint - 10 hours total for each staff person
•15 month MNPBSI course started with small SOS cohort including 4 staff from MSHS Cambridge
•Initiation of Reporting of Restraints and Expert reviews of restraints with follow-up recommen-dations
2012
•New variance instatated and all new medical record document-ation of treatment process started
Utilization Managment Process started
•Settlement Training on PCT, PBS, and CARE reviews - 44 hours total for each staff person

Chemical and Mental Health Services
Course Description

CRITICAL ACTION REVIEW EXPERIENCE **SOS0001476**

PURPOSE, PROCESS, FOLLOW UP

Length: 4.00 hrs **Max Capacity:** 20 **Frequency:** As requested

Instructor Name(s) and Qualifications

DR NANCY DILLON DR STEVEN PRATT

SOS executives, clinically trained
PhD, MD

Competencies
To improve individual and staff outcomes by conducting crticial incident reviews

Delivery Method
Classroom, demonstration, participation in activities, handouts. Practice Steps.

Brief Description
The purpose, process and follow up for a Critical Action Review Experience

Objectives
1. Describe the purpose of the critical action review
2. Describe the conceptual framework for reviewing critical action reviews
3. Describe the process of how to conduct the review
4. Describe the format for conducting the review
5. Describe the follow-up process after the review
6. Establish an environment that facilitates open discussion
7. Conduct a critical action review using the scenario and format provided
8. Provide feedback to the unit/program and administration

Chemical and Mental Health Services
Course Description

INTRODUCTION TO POSTIVE BEHAVIOR SUPPORTS **SOS0001014**

POSITIVE BEHAVIOR SUPPORTS - 3 DAY TRAINING

Length: 24.00 hrs **Max Capacity:** 30 **Frequency:**

Instructor Name(s) and Qualifications

Amado, Richard S. PHD

Rick Amado -PhD, LP, competencies in applied behavior analysis, positive behavior supports, person centered planning, supervision, and training; over 40 years experience effectively serving people for whom typical supports and services do not work; helped to define the field and best practices.

Competencies
Using basic PBS skills in everyday situations
a. How Competency Will Be Met: Testing and OJT Checklists

Creator Rick Amado

Delivery Method
Didactic, demonstrations, and exercises

Brief Description
Participants use activities, didactic, demonstrations, and 8 hours of OJT practicum to acquire some fundamentals of Positive Behavior Supports.

Date Developed 10/9/06

Date Revised 5/15/11___by Rick Amado

Objectives
Upon completion of this course, participant will be able to:
1 Understand the difference between traditional behavior modification and Positive Behavior Support
2 Identify potential factors influencing behavior
3 Use at least one behavior data collection method
4 Conduct a simple functional behavior assessment

Chemical and Mental Health Services

Course Description

MEDICALLY MONITORED RESTRAINT **SOS0001577**

Length: 2.00 hrs **Max Capacity:** 12 **Frequency:** yearly

Instructor Name(s) and Qualifications

RN

Registered Nurse

Competencies
Supervisor observation on implementing competencies that are taught in client environment.

Delivery Method
verbal, powerpoints, and handouts

Methods and Activities: classroom and discussion

Brief Description
Recognizing physical affects as a result of restraint, review manual restraint processes and documentation, review case-studies, review of vital signs.

Objectives
Upon completion the participant will be able to:

1. have a competent knowledge base as it relates to the process of manual restraint, its documentation and appropriate form used.
2. will be able to verbalize the definition of restraint.
3. To assess/monitor client before, during and after a restraint.
4. Demonstrate how to monitor and care for client that is currently being restrained.
5. Demonstrate how to completely and accurately complete all necessary documents.

Chemical and Mental Health Services
Course Description

PERSON CENTERED THINKING 2 DAY WORKSHOP **SOS0001396**

Length: 16.00 hrs **Max Capacity:** 48 **Frequency:**

Instructor Name(s) and Qualifications

Michael Smull

Michael Smull is the Chair of The Learning Community for Essential Lifestyle Planning (TLC-ELP), and Director of Support Development Associates. Certifed trainers from Support Development Assocaiates.

Competencies
Apply Basic Person Centered Skills.

How this competency will be met: Skill Demonstration

Delivery Method
Lecture, PowerPoint, Activities

Brief Description
Course Description:__Lecture, Activities, Discussion in Person Centered Thinking skills

Objectives
Learning Objectives: Upon completion of this course, participant will be able to:
_Day One: Identify Basic Strategies of person centered thinking.
_ Day two, Experience the process personally for applied learning.

SOS PST Technique Menu MSHS Cambridge

PREVENTION

Basic Stance
1. Balance
2. Movement
3. Proxemics and Periphery
4. Add Verbal
   Direction/Distraction/Attention

DISENGAGEMENT

Blocks
Flinch Response
1. Inside Block
2. Two-Hand Overhead Block
3. Downward Block from Overhead
4. Outside Block
5. Kick Block

Wrist Releases
1. One-Handed
2. Two-Handed
3. Two-Handed (2nd Variation)

Pressure Points
1. Styloid Process
2. Philtrum

Release from Bites
1. Reverse Pressure
2. Pressure Points
3. Cover the eyes, pinch nostrils

Wrist Locks for Release & Holding
1. Reverse Wrist Lock

Release from Front Hair Pull
1. Palm Heel to Wrist/ Push off Wrists
2. Balanced Guard
3. Outside Block
4. Reverse Wrist Lock
5. Peel and Push

Release from Rear Hair Pull
1. Balanced Guard
2. Outside Block
   A. 90 degree Block
   B. Upper Arm Block (Elbows)

Release from Rear Choke
1. Turn and Face
2. Outside Block
3. Shoulder Roll (1 or 2 arms up)

Release from Side Head Lock (AMRTC only)
1. Head , Foot, & Hand Placement
2. Pressure Points
3. Push-Out

PHYSICAL ENGAGEMENT

Escorts—less intrusive
1. Simple
2. Crossed Arm
3. Arms Around Back

Escorts—more intrusive
1. Basic Come Along
2. Arm Bar Come-Along
3. Hammer Lock
4. Basket Hold & Takedown

Protective Equipment

1. Weapons
2. Diversionary Devices

Working with Police and Outside Agencies

Other/Topic: Breaking Up Fights

Support Development Associates

Person Centered Thinking Training

A two-day interactive training where participants acquire basic person centered thinking skills, such as:

- The importance of being listened to and the effects of having no positive control
- The role of daily rituals and routines
- How to discover what is important to people
- How to sort what is important for people from what is important to them
- How to respectfully address significant issues of health or safety while supporting choice
- How to develop goals that help people get more of what is important to them while addressing issues of health and safety

The training in person centered thinking is recommended for all paid staff regardless of their role. It serves as a foundation for everyone who is involved in supporting people with significant disabilities. Implementation of person centered plans is more likely where staff have participated in this training.

Day One: Participants are provided with instruction and ample practice in the processes and structures used to develop plans that support choice while addressing issues of health and safety. This day of activities relies on group work and discussion. Through a series of applied stories and guided exercises, participants practice sorting information using the following frameworks:

- What is important to a person and what is important for a person
- Core responsibilities for those who provide support; when judgment and creativity is expected; what is outside the responsibility of paid staff
- What makes sense and what doesn't make sense, and recording this information from a variety of perspectives
- Aspects to consider when matching people who receive supports with people who provide supports

Day Two: Key principles of person centered thinking are covered through essential lifestyle planning. Participants develop their skills in person centered thinking through a series of guided exercises, done in pairs with a fellow participant. Through directed conversation, listening and sorting information, and writing down what they have learned about their partner, participants practice skills required when developing ELPs. At the end of the day participants have a first plan that they have done themselves. This training aligns with The Learning Community for Person Centered Practices.

For more information or to schedule this training contact:

info@sdaus.com
Support Development Associates, LLC
3245 Harness Creek Road, Annapolis MD 21403
410.626.2707

Positive Behavior Supports Exercise Check Sheet

Name _____

Observer _____

Date Completed _____

Observe as many instances of each skill as necessary until the observed employee demonstrates all required components of the skill together in one instance.

1) When delivering Behavior Specific Positive Feedback the participant includes:

1 Content
- a) ❒ Uses the person's name
- b) ❒ Describes what the person did
- c) ❒ Describes a desired, natural outcome of the behavior

2 Tone and Fluency
- a) ❒ Speaks in a calm, clear voice, just loudly enough to be heard
- b) ❒ The words flow smoothly

3 Facial Expression
- a) ❒ Maintains a pleasant expression with some degree of smiling
- b) ❒ Maintains eye contact with the person to whom feedback is being delivered

4 Body Posture
- a) ❒ Stands, kneels, bends, or sits to match eye level
- b) ❒ Stance is relaxed
- c) ❒ Maintains an effective proximity to the person receiving feedback

5 Hands
- a) ❒ Hands are ready and available, but at the speaker's sides
- b) ❒ Hands are relaxed and not fidgeting or fisted
- c) ❒ If used while talking, they do not distract the listener from what is being said

Example: Bill, you put your clothes away, now you will be able to find what you want when you want it!!

2) When delivering Behavior Specific Positive Instructions the participant includes:

1 Content
- a. ❒ Uses the person's name
- b. ❒ Describes at least one available reinforcer
- c. ❒ Describes precisely what the person needs to do to get the reinforcer

2 Tone and Fluency
- a. ❒ Speaks in a calm, clear voice, just loudly enough to be heard
- b. ❒ The words flow smoothly

3 Facial Expression
- a. ❒ Maintains a pleasant expression with some degree of smiling
- b. ❒ Maintains eye contact with the person to whom feedback is being delivered

4 Body Posture
- a. ❒ Stands, kneels, bends, or sits to match eye level
- b. ❒ Stance is relaxed

c. ❒ Maintains an effective proximity to the person receiving feedback

5 Hands

a. ❒ Hands are ready and available, but at the speaker's sides
b. ❒ Hands are relaxed and not fidgeting or fisted
c. ❒ If used while talking, they do not distract the listener from what is being said

Example: Mary, we can watch the movie (name of preferred film) if you brush your teeth, wash your face, and take out the trash before 9:00!

3) When delivering Behavior Specific Positive Correction the participant includes:

1 Content

a. ❒ Uses the person's name
b. ❒ Acknowledges at least three successes or accomplishments
c. ❒ Describes the available reinforcer
d. ❒ Describes precisely what else the person needs to do to get the reinforcer

2 Tone and Fluency

a. ❒ Speaks in a calm, clear voice, just loudly enough to be heard
b. ❒ The words flow smoothly

3 Facial Expression

a. ❒ Maintains a pleasant expression with some degree of smiling
b. ❒ Maintains eye contact with the person to whom feedback is being delivered

4 Body Posture

a. ❒ Stands, kneels, bends, or sits to match eye level
b. ❒ Stance is relaxed
c. ❒ Maintains an effective proximity to the person receiving feedback

5 Hands

a. ❒ Hands are ready and available, but at the speaker's sides
b. ❒ Hands are relaxed and not fidgeting or fisted
c. ❒ If used while talking, they do not distract the listener from what is being said

Example: Joe, you ran the vacuum over the whole room, you paid close attention and picked up a lot of dirt. You can leave for your trip to the store as soon as you get into the corners and get them as clean as the rest of the floor!

4) When pre-specifying reinforcers the participant:

1 Content

a. ❒ Uses the person's name
b. ❒ Negotiates or offers a preferred activity or treat before introducing the task
c. ❒ Precisely state what the person needs to do to get the preferred activity or treat

2 Tone and Fluency

a. ❒ Speaks in a calm, clear voice, just loudly enough to be heard
b. ❒ The words flow smoothly

3 Facial Expression

a. ❒ Maintains a pleasant expression with some degree of smiling
b. ❒ Maintains eye contact with the person to whom feedback is being delivered

4 Body Posture
   a. ❒ Stands, kneels, bends, or sits to match eye level
   b. ❒ Stance is relaxed
   c. ❒ Maintains an effective proximity to the person receiving feedback
5 Hands
   a. ❒ Hands are ready and available, but at the speaker's sides
   b. ❒ Hands are relaxed and not fidgeting or fisted
   c. ❒ If used while talking, they do not distract the listener from what is being said

Example: Hi Carly. I have a cupcake, a chocolate bar and a bouquet of fresh flowers. Would you like to earn on of them by doing your homework? *(Yes.)* Ok, which one would you like to earn by starting now and finishing within one hour?

5) Alternatives to "no":

1 Name Content
   a) ❒ Uses the person's name
   b) ❒ Delivers acknowledgement for requesting/communicating
   c) ❒ Offers an opportunity for the event or substitute event of equal attraction
   d) ❒ Negotiates schedule or appropriate alternative
   e) ❒ Describes a desired, natural outcome of this conversation
2 Tone and Fluency
   a. ❒ Speaks in a calm, clear voice, just loudly enough to be heard
   b. ❒ The words flow smoothly
3 Facial Expression
   a. ❒ Maintains a pleasant expression with some degree of smiling
   b. ❒ Maintains eye contact with the person to whom feedback is being delivered

4 Body Posture
   a. ❒ Stands, kneels, bends, or sits to match eye level
   b. ❒ Stance is relaxed
   c. ❒ Maintains an effective proximity to the person receiving feedback
5 Hands
   a. ❒ Hands are ready and available, but at the speaker's sides
   b. ❒ Hands are relaxed and not fidgeting or fisted
   c. ❒ If used while talking, they do not distract the listener from what is being said

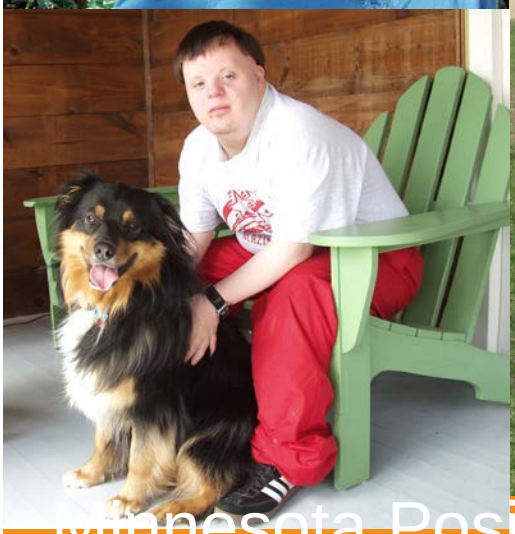
Example: Sharon, thanks for letting me know what you would like to do. I can do that on Friday or Saturday, will that work for you? *(No, but I can go Sunday)* I'll ask Tom if he can go on Sunday and let you know tomorrow, okay? *(No, I want to know now)* Ok, I can also go next Monday or Wednesday; will one of those work? *(Yes)* Great. Thanks for working this out with me. We'll be sure to stop at the bakery for a treat while we are out.

NAME: **ABC - Behavior Analysis Data Sheet**

Date and day of the week	Time	Context – *What is happening in the environment and/or what is the setting or background under which this behavior occurred*	Antecedent – *What happened just prior to the behavior occurring*	Behavior – *Describe what the person was doing*	Consequence – *What happened as a result of engaging in the behavior*	Comments/Function – *What is your opinion as to what the person is aiming to communicate or accomplish by engaging in this behavior*

NAME: **ABC Analysis Data Sheet**

Date	Time	Context	Antecedent	behavior	Consequence	Comments/function



Minnesota Positive Behavior Support Initiative

MNPBSI is an intensive training program in Person-Centered Positive Behavior Support (PC-PBS) for professionals working with children, adolescents, or adults whose challenging behavior (associated with intellectual/developmental disability and/or mental illness) is a barrier to a quality life and full participation in home, work, and community. Behavior analysts, psychologists, social workers, and professionals from related disciplines will find the PBS training program to complement their existing skill set and prepare them to apply effective behavior change technology, grounded in the assessment and intervention practices of Applied Behavior Analysis, in a person-centered framework.

Over the course of 15 months and approximately 8 hrs/wk of dedication to the program, professionals will learn a person-centered PBS approach to helping people with significant challenging behavior identify and work towards their dreams and visions. The training includes a combination of independent online work, class meetings, and 1:1 on-site coaching and feedback from a mentor (in the places trainees work every day).

Training overview

- Nine online course modules (completed independently) and corresponding class meetings
- Four on-site coaching sessions + fidelity checks (observed application of PC-PBS) with instructor
- Two comprehensive PC-PBS case studies produced by each trainee
- Two exams (midterm + final)

Online course modules

- **Person Centered Planning** — setting the context for working with people with challenging behavior
- **Positive Behavior Support** — values, including person-centered planning and inclusion, driving intervention
- **Applied Behavior Analysis** — the technology of behavior change applied within the values and context of PC-PBS
- **Measurement and Design** — knowing what works through empirical evaluation
- **Linking Assessment to Intervention** — the importance of Functional Behavior Assessment as a driver of treatment planning
- **Emotional and Behavioral Health** — working with people with co-occurring mental illness and intellectual/developmental disability
- **Systems Change** — advancing the standard of care within agencies and across the state

Class meetings

- Nine full-day meetings
- Synthesis of information throughout the course as it is learned and applied
- Demonstration and practice of conceptual knowledge
- Intentional connection between course/modules content and the professional practice of trainees

Successful graduates will be able to —

- Coordinate and conduct person-centered planning and PBS team meetings
- Create operational definitions of behavior
- Conduct functional behavior assessments and link them to effective PBS plans
- Train team members to implement PBS plans
- Design data collection systems, calculate reliability between two observers, and evaluate fidelity of PBS plan implementation

The MNPBSI training modules can be viewed at **http://rtc.umn.edu/mnpbsi.** Use the guest login as directed.

MNPBSI is an initiative within the Center on Person-Centered Systems Design. The Center seeks to expand access to effective person-centered approaches to creating quality lives and desirable futures for people with disabilities and mental illness through training, education, and innovative collaboration.

Research & Training Center on Community Living

University of Minnesota
Driven to Discover℠

SAFEGUARDS FOR BEHAVIOR SUPPORTS

Disclaimer: This rule draft is intended to stimulate discussion and is not a final rule nor is it department policy. The rule title and every part of the rule may be changed as the rule goes through the rule development process. The only official rule draft that reflects department policy is the final proposed rule which will be published in the State Register along with a Notice of Intent to Adopt a Rule with a Public Hearing, which will likely be published some time in 2013. Please feel free to comment on this rule draft and suggest changes and ask questions about the rule.

9525.2701. PUPOSE AND APPLICABILITY.

Subpart 1. **Purpose.** Parts 9525.2701 to 9525.2791 [tentative numbers] meets the requirements of Minnesota Statutes, section 245.825 that the commissioner adopt rules governing ~~use of aversive and deprivation procedures~~ quality outcomes standards and safeguards for behavior supports in programs that serve persons with disabilities. Parts 9525.2701 to 9525.2791set standards that require providers use evidence-based positive treatment practice methods to care for persons and ensure that each person served by the provider has access to person-centered planning services that help the person:

A. have control over their supports,
B. make personal choices,
C. develop long-term personal relationships,
D. share ordinary community places and participate in ordinary community activities,
E. contribute to the community,
F. be treated with respect, [is this a patient rights activity regarding respect for a person by staff in the program? or does this refer to the general public [who are not governed by the rule] showing respect to a person?]
G. have a valued social role; and
H. earn stable income from public and private sources.

Providers must meet rule standards for the use of positive treatment practices for the care and treatment of persons. Positive treatment practices must be used to manage a person's behavior that would be considered to be challenging. Challenging behavior means to significantly interfere with, prevent or deny a person opportunities for community integration and full inclusion; and to be at risk to a person's own health or safety or to be at risk to the health or safety of others.

Subp. 2. **Scope and Applicability.** Parts 9525.2701 to 9525.2791 govern a provider's use of positive support strategies and restrictive emergency techniques with persons who have a developmental disability when those persons are served by a license holder:

A. Licensed under Minnesota Statutes chapter 245D [The department will seek Phase II enactment of this chapter in 2013, Phase I passed in 2012 legislation]
B. Licensed under Minnesota Statutes chapter 245B to provide residential-based habilitation services;
C. Licensed under Minnesota Statutes chapter 245B as a residential program for persons with a developmental disability. If a requirement of Minnesota Statutes chapter 245B differs from a requirement in Code of Federal Regulations, title 42, sections 483.400 to 483.480, an intermediate

care facility for persons with a developmental disability shall comply with the rule or regulation that sets the more stringent standard;

D. Licensed under parts 9503.0005 to 9503.0175 and 9545.0750 to 9545.0855 to provide services to children with a developmental disability;
E. Licensed under parts 9555.9600 to 9555.9730 as an adult day care center;
F. Licensed under parts 9555.5105 to 9555.6265 to provide foster care for adults or under part 9545.0010 to 9545.0260 to provide foster care for children; or
G. Licensed for any other service or program requiring licensure by the commissioner as a residential or nonresidential program serving persons with a developmental disability, as specified in Minnesota Statutes, section 245A.02.

Subp. 3. **Exclusion.** Parts 9525.2701 to 9525.2791 do not apply to:

A. Treatments defined in parts 9515.0200 to 9515.0700 governing the administration of specified therapies to committed patients residing at *regional centers*; or
B. Residential care or program services licensed under parts 9520.0500 to 9520.0690 to serve persons with mental illness.

9525.2711. DEFINITIONS

Subpart 1. **Scope.** The terms used in parts 9525.2701 to 9525.2791 have the meanings given to them is this subpart. [these may not currently be in alphabetical order nor a complete list.]

Subpart 2. **Chemical restraint.** "Chemical restraint" means the administration of a drug or medication when it is used as a restriction to manage the person's behavior or restrict the person's freedom of movement and is not a standard treatment or dosage for the person's condition. Orders or prescriptions for the administration of medications to be used as a restriction to manage the person's behavior or restrict the person's freedom of movement shall not be written as a standing order or on an as-needed basis (PRN).

Subpart 3. **Challenging behavior**. "Challenging behavior" means behavior that significantly interferes with, prevents or denies a person opportunity for community integration and full inclusion; and to be at risk to a person's own health or safety or to be at risk to the health or safety of others.

Subpart 4. **Emergency.** "Emergency" means situations when the person's conduct poses an imminent risk of physical harm to self or others and less restrictive strategies would not achieve safety. Person's refusal to receive and participate in treatment shall not constitute an emergency.

Subpart 5. **Expanded interdisciplinary team.** "Expanded interdisciplinary team" means a team composed of: the client receiving treatment from METO; his or her case manager; his or her legal representative and advocate, if any; representatives of providers of residential, day training and habilitation, and support services identified in the person's Treatment Plan; a health professional, if the client has overriding medical needs; mental health professionals (e.g. Psychologist, Psychiatrist, Counselor) if the client has overriding mental health needs; and a designated coordinator. The designated coordinator must have at least one year of direct experience in assessing, planning, implementing, and monitoring a plan that includes a behavior intervention program.

Subpart 6. **Manual restraint**. "Manual restraint" means physical intervention intended to hold a client immobile or limit a person's movement by using body contact as the only source of physical restraint. It is any manual method that restricts freedom of movement or normal access to one's body, including hand or arm holding to escort an individual over his or her resistance to being escorted. The term *does not mean*

physical contact used to: facilitate the client's completion of a task or response when the client does not resist or the client's resistance is minimal in intensity and duration; conduct necessary to perform medical examination or treatment; response blocking and brief redirection used to interrupt an individual's limbs or body without holding a client or limiting his or her movement; or holding an individual, with no resistance from that individual, to calm, or comfort.

Subpart 7. **Mechanical restraint**. "Mechanical restraint" means the use of a device to limit a person's movement or hold a person immobile as an intervention precipitated by a person's behavior. The only approved mechanical restraints are Velcro soft cuffs and fabric ankle straps. The term does not apply to devices used to treat a person's medical needs to protect a person known to be at risk of injury resulting from lack of coordination or frequent loss of consciousness, or to position a person with physical disabilities in a manner specified in the person's Treatment Plan.

Subpart 8. **Pain.** "Pain" includes physical pain, mental pain or emotional distress.

Subpart 9. **Personal Safety Techniques.** "Personal Safety Techniques (PST)" means application of external physical control by employees to clients only when clients cause an emergency despite the preventive therapeutic intervention strategies attempted. Physical control is based on the principle of using the least amount of force necessary to prevent injury and protect life and physical safety when positive behavior programming and other less restrictive prevention strategies have failed.

Subpart 10. **Positive treatment practices.** "Positive treatment practices" means _ [Do we want to define the term "positive behavior practices" as including positive behavior supports?]

Subpart 11. **Prone Restraint**. "Prone restraint" means any restraint that places the individual in a facedown position. Prone restraint does not include brief physical holding of an individual who, during an incident of physical restraint, rolls into a prone or supine position, when staff restore the individual to a standing, sitting, or side-lying position as soon as possible.

Subpart 12. **Restraint.** "Restraint" means the use of manual, mechanical, prone, or chemical restraint.

Subpart 13. **Seclusion.** "Seclusion" means the placement of a person alone in a room from which egress is: a. noncontingent on the person's behavior; or b. prohibited by a mechanism such as a lock or by a device or object positioned to hold the door closed or otherwise prevent the person from leaving the room.

Subpart 14. **Staff Certified in Therapeutic Intervention and Personal Safety Techniques.** "Staff Certified in Therapeutic Intervention and Personal Safety Techniques" means a staff member who has successfully completed the State Operated Services standardized and facility approved "Therapeutic Intervention" and "Personal Safety Technique" courses within the past year or taken a "Therapeutic Intervention" and "Personal Safety Technique" refresher classes within the last year.

Subpart 15. **Therapeutic intervention.** "Therapeutic intervention" means a form of intervention which consists of early identification of potential emergencies; prevention of emergencies through verbal, non-verbal, and nonphysical methods; diversion by providing choices to clients or alternate activities, environments or personal contacts. Prevention is predicated on identification of individual client needs, planning to meet those needs, and the use of specific de-escalation techniques in the client's Treatment Plan.

Subpart 16. **Time out.** "Time out" means removing a person from the opportunity to gain positive reinforcement and is employed when a person demonstrates a behavior identified in the individual program plan for reduction or elimination. Room time out means removing a person from an ongoing activity to a room (either locked or unlocked).

Subpart 17. **Treatment plan.** "Treatment Plan" means a plan developed by the Expanded Interdisciplinary Team, outlining positive behavior support strategies as the course of treatment intervention intended to encourage alternate behaviors in place of those behaviors that inhibit a client's ability to live sustainably in the community. This plan is developed using the information garnered from a thorough assessment of the function of the undesired behaviors, as well as person centered planning principles consistent with *Olmstead v. L.C.*, 527 U.S. 582 (1999), in order to assist the Expanded Interdisciplinary Team in creating treatment interventions that will effectively help the client get his or her needs met by alternate methods.

Subpart X. **Person.** "Person" has the meaning given in Minnesota Statutes, sections 245.825, subdivision 1 and 252.27, subdivision 1a.

Subpart X. **Aversive procedure.** "Aversive procedure" means the planned application of an aversive stimulus (1) contingent upon the occurrence of a behavior identified in the individual program plan for reduction or elimination; or (2) in an emergency situation governed by parts 9525.XXXX.

Subpart X. **Aversive stimulus.** "Aversive stimulus" means an object, event, or situation that is presented immediately following a target behavior in an attempt to suppress that behavior. Typically, an aversive stimulus is unpleasant and penalizes or confines.

Subpart X. **Deprivation procedure.** "Deprivation procedure" means the removal of a positive reinforce following a response resulting in, or intended to result in, a decrease in the frequency, duration, or intensity of that response. Often times the positive reinforce available is goods, services, or activities to which the person is normally entitled. The removal is often in the form of a delay or postponement of the positive reinforce.

9525.2721. PERSON-CENTERED PLANNING.

Statement of intent.

Subpart 1. **Requirements**

All plans developed under Minnesota Statute 245B must utilize person-centered processes.

Subp. 2. **Assessment information.**

Assessments must be conducted for each individual to obtain accurate and complete information related to the individual's history, preferences, strengths, and abilities and needed services. The assessments must be the basis of development of the IPP. Assessments must be completed for each individual within 30 calendar days of entry to services; at least annually, the assessments must be reviewed and updated to reflect the individual's current status. [from NE rule 4-005.01A]

Subp. 3. **Monitoring individual program plan.**

Subp. 4. **Informed consent required.**

Subp. 5. Documenting informed consent

In what form? What frequency?

Subp. 6. **Authority to give consent**

Subp. 7. **Information given to a person to obtain informed consent**

Subp. 8. **Consent for substantial change.**

9525.2731. POSITIVE SUPPORT STRATEGIES.

Subpart 1. Positive support strategies and person-centered planning required. The provider must use positive support strategies to support and serve persons. The provider must treat persons according to a plan that is developed using the principles of person-centered planning and is consistent with the state Olmstead Plan. Providers governed by this rule must meet rule standards for the use of positive treatment practices for the care and treatment of persons. Positive treatment practices must be used to manage a person's challenging behavior.

Subpart 2. Rights of persons. Each person is a vulnerable adult as defined in MS xxx, and is subject to the protections and rights afforded by MS xxx and xxx [list them all – may include, but not limited to: patient bill of rights, health care bill of rights, 245D licensing bill of rights] .

Subpart 3. Notice of rights. Each person and their guardian if they have one must be informed of their rights including:

1. Protection-related rights in Minnesota Statutes 245D.04, subdivision 2(a)-(b)
2.

9525.2741. PROHIBITED TECHNIQUES

Subpart 1. Programmatic use of aversive and deprivation techniques prohibited. The provider must not use the following techniques with persons**:**

A. Prone restraint

B. Seclusion

C. Faradic shock

D. Psycho surgery

E. Electroconvulsive therapy

F. Time out, including exclusionary time out and room time

G. Chemical restraint

H. Overcorrection

I. Response cost procedures

J. Deprivation techniques used as punishment

K. Deprivation techniques other than temporary deprivation for imminent safety of person or others

L. Medical restraint used to punish, as substitute for habilitation, skills training, behavior support plans, staff convenience, or behavior modification

M. Aversive techniques used as therapeutic or programmatic services

N. Painful techniques

O. Abusive or derogatory language

P. Use of corporal punishment, such as hitting, pinching, or slapping

Q. Speaking to a person in a manner that ridicules, demeans, or threatens

R. Requiring a person to assume and maintain a specific physical position for long periods of time which causes the person to experience discomfort

S. Restricting a person's senses, ~~except as expressly permitted in part 9525.xxxx~~

T. Presenting intense sounds, lights, or other sensory stimuli to a person as an aversive stimulus

U. Using a noxious smell, taste, substance, or spray, including water mist, as an aversive stimulus to a person

V. Denying or restricting a person's access to or modifying normal use of equipment and devices such as walkers, wheelchairs, hearing aids, and communication boards that facilitate the person's functioning. When the temporary removal of the equipment or device is necessary to prevent injury to the person or others or serious damage to the equipment or device, the equipment or device must be returned to the person as soon as possible

9525.2751. CRITERIA FOR EMERGENCY PROCEDURE USE.

List allowed restrictive practices and procedures.

List criteria for emergency intervention techniques .

List documentation for review and future person-centered emergency planning.

Emergency intervention techniques. [needs work] Some restraint techniques will be permitted as a technique of last resort in emergencies (defined above) only for safety purposes when no other less restrictive alternative is determined a viable option. The following techniques may be used with a person in an emergency as detailed in the provider's policy by staff under clinical supervision who are trained and qualified to use the technique [include references to rule parts that explain person-centered plans, appropriate training, authorization, internal and external reviews]:

A. A provider may use a mechanical restraint to limit a person's movement or hold a person immobile as an intervention precipitated by a person's behavior. The only approved mechanical restraints are Velco soft cuffs and fabric ankle straps. The term "mechanical restraint does not apply to devices used to treat a person's medical needs to protect a person known to be at risk of injury resulting

from lack of coordination or frequent loss of consciousness, or to position a person with physical disabilities in a manner specified in the person's treatment plan.

B. A provider may use a manual restriction method that restricts freedom of movement or normal access to one's body, including hand or arm holding to escort an individual over his or her resistance to being escorted. The term does not mean physical contact used to: facilitate the client's completion of a task or response when the client does not resist or the client's resistance is minimal in intensity and duration; conduct necessary to perform medical examination or treatment; response blocking and brief redirection used to interrupt an individual's limbs or body without holding a client or limiting his or her movement; or holding an individual, with no resistance from that individual, to calm, or comfort.

(1) The settlement agreement permits: prone restraint when used as a transitory take- down portion of a manual restraint procedure, sidelying hold

(2) The advisory committee will discuss and recommend the specific manual restraints allowed in emergencies.

9525.2761. EMERGENCY PROCEDURE REVIEW.

Clearly describe triggers for internal and outside review.

Subpart 1. **Monitoring, oversight, reporting, enforcement.** The……

(a) Monitoring during an emergency procedure

(b) Monitoring behavior support plans [from AZ]

a. ___ team shall appoint a team member, excluding those direct service staff responsible for implementing the approved behavior treatment plan, who shall:

i. Ensure that the behavior support plan is implemented as approved

ii. Ensure that all persons implementing the behavior support plan have received appropriate training as specified in 9525.____

iii. Ensure that objective, accurate data are maintained in the person's record

iv. Evaluate, at least monthly, collected data and other relevant information as a measure of the effectiveness of the behavior treatment plan

v. Conduct on-site observations not less than twice per month and prepare, sign and place in the person's record a report of all observations

9525.2771. PROFESSIONAL AND PROGRAM DEVELOPMENT.

Initial and ongoing training.

Employee assessment and performance improvement.

Management assessment and performance improvement.

Program policy and procedure assessment and improvement.

Coordinate these requirements with professional and program licensing and certification.

Training

The provider must ensure that all staff are trained in positive behavior supports, person-centered approaches, therapeutic interventions, personal safety techniques, crisis intervention and post-crisis evaluation. All training shall be consistent with applicable best practices.

All staff shall receive a specified number of hours of training before beginning direct work with clients and during their employment.

Only staff trained in manual restraint use shall be able to implement a manual or mechanical restraint (and in emergency situations only).

Number of hours, frequency, curriculum, etc. should be discussed and recommended by advisory committee. DHS and the University of Minnesota have established curriculum available as possible options.

9525.2781. IMPLEMENTATION

9525.2791. EMERGENCY PROCEDURE NONCOMPLIANCE.

Required reporting.

Describe result of noncompliance/penalty for noncompliance**.**