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**CHAPTER 1155. INTENSIVE BEHAVIORAL HEALTH SERVICES**

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## GENERAL PROVISIONS

### § 1155.1. Policy.

(a) The [MA] Medical Assistance (MA) Program provides payment for [IBHS] intensive behavioral health services (IBHS) when the [service is] services are medically necessary and provided to eligible children, youth or young adults [under 21 years of age] with a behavioral health [diagnoses] diagnosis by licensed IBHS agencies enrolled in the MA Program as providers under this chapter.

(b) Payment for IBHS is subject to the provisions in this chapter, Chapter 1101 (relating to general provisions), the limitations in Chapter 1150 (relating to MA Program payment policies) and the MA Program fee schedule.

(c) This chapter does not apply to individual licensed practitioners or group arrangements of licensed practitioners that bill only for services provided directly by the licensed practitioners.

### § 1155.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*ABA—Applied [behavioral] behavior analysis*—The design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior or to prevent loss of attained skill or function[,which includes all of the following:] including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

[(i) The use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(ii) The attempt to address one or more behavior challenges or skill deficits using evidence-based principles and practices of learning and behavior.

(iii) The analysis of the relationship between a stimulus, consequence or other variable. The changes of stimuli, consequences or other variables may occur individually, as a combination or in relationship with each other. The change of stimuli, consequences or other variables may be external or internal to the person whose behavior is being analyzed.]

*Caregiver*—An individual with responsibility for the care and supervision of a [minor] child, youth or young adult.

*Child*—A person under 14 years of age.

[*Consequence*—A resulting directly measurable change of a child's, youth's or young adult's behavior produced by a change in a stimulus or stimuli.]

*DSM*—*Diagnostic and Statistical Manual of Mental Disorders*.

*Department*—The Department of Human Services of the Commonwealth.

*EBT*—*Evidence-based therapy*—Behavioral health therapy that uses scientifically established behavioral health interventions and meets one of the following:

(i) Categorized as effective [in] by the Substance Abuse and Mental Health Services Administration's National Registry of Evidence-based Programs and Practices] Administration in the Evidence-Based Practice Resource Center.

(ii) Categorized as Model or Model Plus in the Blueprints for Healthy Youth Development registry.

(iii) Categorized as well-established by the American Psychological Association's Society of Clinical Child and Adolescent Psychology.

(iv) Rated as having positive effects by the Institute of Education Sciences' What Works Clearinghouse.

[(v) Designated as a model intervention by the Department.]

*Group services*—Therapeutic interventions provided primarily in a group format through psychotherapy[,]; structured activities, including ABA services; and community integration activities that address a child's, youth's or young adult's identified treatment needs. [When included in a child's, youth's or young adult's ITP, group services may include individual interventions.]

*IBHS*—*Intensive behavioral health services*—An array of therapeutic interventions and supports provided to a child, youth or young adult in the home, school or other community setting.

*IBHS agency*—An entity that provides one or more IBHS.

*ICD*—*International Classification of Diseases*.

*ITP*—*Individual treatment plan*—A detailed written plan of treatment services specifically tailored to address [each] a child's, youth's or young adult's therapeutic needs that contains the type, amount, frequency, setting and duration of services to be provided and the specific goals, objectives and interventions for [each] the service.

*Individual services*—Intensive [one-to-one] therapeutic interventions and supports that are used to reduce and manage identified therapeutic needs, increase coping strategies and support skill development to promote positive behaviors with the goal of stabilizing, maintaining or maximizing functioning of a child, youth or young adult in the home, school or other community setting.

*Initiation of service*—The first day an individual service, ABA service or group service is provided. This includes the first day an assessment is conducted.

*MA*—Medical Assistance.

[*Stimulus*—An event, circumstance or condition that can be changed or does change based upon the behavior specialist analyst's manipulation.]

*Staff*—Any individual, including an independent contractor or consultant, who works for an IBHS agency.

[*Variables*—An observed or manipulable condition that can be changed or does change and a directly measurable change of a child's, youth's or young adult's behavior produced by the change.]

*Young adult*—A person 18 years of age or older but under 21 years of age.

*Youth*—A person 14 years of age or older but under 18 years of age.

## SCOPE OF BENEFITS

### § 1155.11. Scope of benefits.

Children, youth or young adults [under 21 years of age] with a behavioral health [diagnoses] diagnosis are eligible [for the full range of] to receive covered IBHS.

## PROVIDER PARTICIPATION

### § 1155.21. Participation requirements.

In addition to the participation requirements in Chapter 1101 (relating to general provisions), an IBHS agency shall meet the following requirements to participate in the MA Program:

(1) [Have a current license as an IBHS agency issued by the Department] Be licensed as an IBHS agency in accordance with Chapters 20 and 5240 (relating to licensure or approval of facilities and agencies; and intensive behavioral health services).

(2) Enter into a written provider agreement with the Department.

(3) Be enrolled in the MA Program by the Department.

**§ 1155.22. Ongoing responsibilities of providers.**

(a) Ongoing responsibilities of IBHS agencies are in Chapters 1101 and 5240 (relating to general provisions; and intensive behavioral health services).

(b) Recordkeeping requirements for IBHS agencies are in §§ 1101.51(e), § 5240.41 and § 5240.42 (relating to ongoing responsibilities of providers; individual records; and agency records).

[(c) A licensed IBHS agency shall have a current license for each branch location or satellite location.

(d) Each branch location or satellite location of a licensed IBHS shall be enrolled by the Department.]

(e) An IBHS agency shall notify the Department[, in writing,] of a change in name[,] or address [or services provided prior to the effective date of the change].

**PAYMENT FOR INTENSIVE BEHAVIORAL  
HEALTH SERVICES**

**§ 1155.31. General payment policy.**

(a) Except as provided in subsections (b)-(d), payment is made to a licensed IBHS [agencies] agency for medically necessary IBHS provided by qualified individuals under the supervision and direction of a clinical director that meets the qualifications in § 5240.12(b) or § 5240.81(b) (relating to staff qualifications; and staff qualifications for ABA services), subject to the conditions and limitations in this chapter and Chapters 1101 and 1150 (relating to general provisions; and MA Program payment policies) and the MA Program fee schedule.

(b) Payment will be made to an IBHS agency that complies with Chapter 5240 (relating to intensive behavioral health services) and holds an outpatient psychiatric clinic, a psychiatric partial hospitalization program or a family-based mental health license issued by the Department as of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of the final-form rulemaking.*), [and the license has not expired] until the agency's license expires.

(c) Payment will be made to an unlicensed IBHS agency that complies with Chapter 5240 and is approved to provide behavioral health rehabilitation services as of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of the final-form rulemaking.*), for 1 year after promulgation of this chapter.

(d) Payment will be made to an unlicensed IBHS agency that complies with Chapter 5240 and is approved to provide ABA services as of \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of the final-form rulemaking.), for 180 days after promulgation of this chapter.

[(c)] (e) Payment will not be made for a compensable IBHS if payment is available through a third party. Providers shall comply with § 1101.64 (relating to third-party medical resources (TPR)).

[(d) Payment will not be made for services rendered at an IBHS agency's branch or satellite location if the branch or satellite location is not licensed and enrolled.]

**§ 1155.32. Payment conditions for individual services.**

(a) Payment will be made to a licensed IBHS agency for individual services if [all of] the following conditions are met:

(1) There is a written order for services based on a face-to-face interaction with the child, youth or young adult that meets [all of] the following:

(i) Written within [6] 12 months prior to the initiation of IBHS.

(ii) Written by a licensed physician, licensed psychologist, certified registered nurse practitioner or other licensed professional whose scope of practice includes the diagnosis and treatment of behavioral health disorders and the prescribing of behavioral health services, including IBHS.

(iii) Includes a behavioral health disorder diagnosis listed in the most recent edition of the DSM or ICD.

(iv) Orders one or more IBHS for the child, youth or young adult and includes [all of] the following:

(A) The clinical information to support the medical necessity of the service ordered.

(B) The maximum number of hours of each service [each] per month.

(C) The settings where services may be provided.

(D) The measurable improvements in the identified therapeutic needs that indicate when services may be reduced, changed or terminated.

(2) A [comprehensive] face-to-face assessment has been completed by [a behavior specialist or mobile therapist] an individual qualified to provide behavior consultation services or mobile therapy services within 15 days of the initiation of individual services and prior to [developing] completing the ITP in accordance with § 5240.21 (relating to

assessment)[,] or a [comprehensive] face-to-face assessment has been reviewed and updated within [the last 6] 12 months of the previous face-to-face assessment. [or a comprehensive face-to-face assessment has been reviewed and updated because one of the following has occurred:

(i) A parent or caregiver of a child or youth requests an update.

(ii) A young adult or youth requests an update.

(iii) A child or youth experiences a change in living situation that results in a change of the child's or youth's primary caregivers.

(iv) The child, youth or young adult completes an ITP goal.

(v) The child, youth or young adult is not progressing towards the goals identified in the ITP within 90 days from the initiation of services identified in the ITP.

(vi) The child, youth, young adult or the family experiences a crisis event.

(vii) An IBHS agency staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services determines an update is needed.]

(3) The assessment and all updates have been signed by the [IBHS agency] staff person [that] who completed the assessment [and the supervisor of the staff person that completed the assessment].

(4) An ITP based upon the assessment and the written order for services has been [developed] completed within 30 days after the initiation of services in accordance with § 5240.22 (relating to individual treatment plan)[,] or an ITP has been reviewed and updated within [the last] 6 months of the previous ITP. [or an ITP has been reviewed and updated because one of the following has occurred:

(i) An ITP goal is completed.

(ii) No significant progress is made within 90 days from the initiation of services identified in the ITP.

(iii) A youth or young adult requests a change.

(iv) A parent or caregiver of a child or youth requests a change.

(v) The child, youth or young adult experiences a crisis event.

(vi) The ITP is no longer clinically appropriate for the child, youth or young adult.

(vii) An IBHS agency staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services recommends a change.]

(5) The ITP and all updates have been reviewed and signed by the youth, young adult, or [at least one] parent or [caregiver] legal guardian of the child or youth, the staff person who [developed] completed the ITP and [the supervisor of the staff person who developed the ITP] an individual who meets the qualifications of a clinical director in § 5240.12 (relating to staff qualifications).

(6) For continued individual services, a child, youth or young adult shall have an order written [in the last 6] within 12 months of the initiation of services that complies with subsection (a)(1)(ii)—(iv).

[(7) For individual services reinitiated after a child, youth or young adult is discharged, payment will be made for up to 90 days if reinitiation of services was requested within 60 days after discharge and there is a written order that complies with paragraph (1)(ii)—(iv).]

(b) Payment will be made to a licensed IBHS agency for individual services for up to 45 days after initiation of services, if an ITP has not yet been completed but there is a written order for services that complies with subsection (a)(1) and there is a treatment plan for the individual services provided.

### **§ 1155.33. Payment conditions for ABA services.**

(a) Payment will be made to a licensed IBHS agency for ABA services if [all of] the following conditions are met:

(1) There is a written order for ABA services based on a face-to-face interaction with the child, youth or young adult that meets [all of] the following:

(i) Written within 12 months prior to the initiation of ABA services.

(ii) Written by a licensed physician, licensed psychologist, certified registered nurse practitioner or other licensed professional whose scope of practice includes the diagnosis and treatment of behavioral health disorders and the prescribing of behavioral health services, including IBHS.

(iii) Includes a behavioral health disorder diagnosis [that is] listed in the most recent edition of the DSM or ICD.

(iv) Orders ABA services for the child, youth or young adult and includes [all of] the following:



(A) The clinical information to support the medical necessity of each ABA service ordered.

(B) The maximum number of hours of each ABA service [each] per month.

(C) The settings where ABA services may be provided.

(D) The measurable improvements in targeted behaviors or skill deficits that indicate when services may be reduced, changed or terminated.

(2) A [comprehensive] face-to-face assessment has been completed by [a behavior specialist analyst] an individual qualified to provide behavior analytic services or behavior consultation-ABA services within 30 days of the initiation of ABA services and prior to [the development of] completing the ITP in accordance with § 5240.85 (relating to assessment)[,] or a [comprehensive] face-to-face assessment has been reviewed and updated within [the last year] 12 months of the previous face-to-face assessment. [or a comprehensive face-to-face assessment has been reviewed and updated because one of the following has occurred:

(i) A parent or caregiver of a child or youth requests an update.

(ii) A youth or young adult requests an update.

(iii) A child or youth experiences a change in living situation that results in a change of the child's or youth's primary caregivers.

(iv) The child, youth or young adult completes an ITP goal.

(v) The child, youth or young adult is not progressing towards the goals identified in the ITP within 90 days from the initiation of the ABA services identified in the ITP.

(vi) The child, youth, young adult or the family experiences a crisis event.

(vii) The behavior specialist analyst, ABA clinical director, primary care physician, other treating clinician, case manager or other professional involved the child's, youth's or young adult's services determines an update is needed.]

(3) The assessment and all updates have been signed by [the behavior specialist analyst that] the staff person who completed the assessment [and the ABA clinical director].

(4) An ITP based upon the assessment and the written order for ABA services has been [developed] completed within [30] 45 days after the initiation of ABA services in accordance with § 5240.86 (relating to individual treatment plan)[,] or an ITP has been reviewed and updated within [the last] 6 months of the previous ITP. [or an ITP has been reviewed and updated because one of the following has occurred:

- (i) An ITP goal is completed.
  - (ii) No significant progress has been made within 90 days from the initiation of ABA services identified in the ITP.
  - (iii) A youth or young adult requests a change.
  - (iv) A parent or caregiver of a child or youth requests a change.
  - (v) The child, youth or young adult experiences a crisis event.
  - (vi) The ITP is no longer clinically appropriate for the child, youth or young adult.
  - (vii) A behavior specialist analyst, ABA clinical director, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services recommends a change.]
- (5) The ITP and all updates have been reviewed and signed by the youth, young adult, or [at least one] parent or [caregiver] legal guardian of the child or youth, the [behavior specialist analyst] staff person who [developed] completed the ITP and [the ABA clinical director] an individual who meets the qualifications of a clinical director in § 5240.81 (relating to staff qualifications for ABA services).
- (6) For continued ABA services, a child, youth or young adult shall have an order written [in the last] within 12 months of the initiation of services that complies with subsection (a)(1)(ii)—(iv).
- [(7) For ABA services reinitiated after a child, youth or young adult is discharged, payment will be made for up to 90 days if reinitiation of services was requested within 60 days after discharge and there is a written order that complies with paragraph (1)(ii)—(iv).]
- (b) Payment will be made to a licensed IBHS agency for ABA services for up to 75 days after initiation of services, if there is a written order for services that complies with subsection (a)(1) and there is a treatment plan for the ABA services provided.

**§ 1155.34. Payment conditions for [EBT] group services.**

[Payment will be made to a licensed IBHS agency for EBT services if all of the following conditions are met:

- (1) There is a written order for EBT services that meets the requirements of § 1155.32(1) (relating to payment conditions for individual services).

(2) A comprehensive face-to-face assessment has been completed by a staff person with the qualifications required by the EBT within 15 days of the initiation of the service and prior to developing the ITP in accordance with § 5240.92 (relating to assessment and individual treatment plan), or a comprehensive face-to-face assessment has been reviewed and updated within the last 6 months or a comprehensive face-to-face assessment has been reviewed and updated because one of the following has occurred:

(i) A parent or caregiver of a child or youth requests an update.

(ii) A young adult or youth requests an update.

(iii) A child or youth experiences a change in living situation that results in a change of the child's or youth's primary caregivers.

(iv) The child, youth or young adult completes an ITP goal.

(v) The child, youth or young adult is not progressing towards the goals identified in the ITP within 90 days from the initiation of services identified in the ITP.

(vi) The child, youth, young adult or the family experiences a crisis event.

(viii) An IBHS agency staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services determines an update is needed.

(3) The assessment and all updates have been signed by a staff person with the qualifications required by the EBT and the staff person's supervisor.

(4) An ITP based upon the assessment and the written order for services has been developed within 30 days of the initiation of services in accordance with § 5240.92, or an ITP has been reviewed and updated within the last 6 months or an ITP has been reviewed and updated because one of the following has occurred:

(i) An ITP goal is completed.

(ii) No significant progress is made within 90 days from the initiation of the EBT service identified in the ITP.

(iii) A youth or young adult requests a change.

(iv) A parent or caregiver of a child or youth requests a change.

(v) The child, youth or young adult experiences a crisis event.

(vii) The ITP is no longer clinically appropriate for the child, youth or young adult.

(viii) An IBHS agency staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services recommends a change.

(5) The ITP and all updates have been reviewed and signed by the youth, young adult, or at least one parent or caregiver of the child or youth, the staff person who developed the ITP and the supervisor of the staff person who developed the ITP.

(6) For continued EBT services, a child, youth or young adult shall have an order written in the last 6 months that complies with § 1155.32(1)(ii)—(iv).

(7) The IBHS agency has a current certification or licensure from the National certification organization or entity that developed or owns the EBT provided or the EBT has been designated by the Department as a model intervention.

(8) The IBHS agency delivers the services in accordance with the specific EBT.

(9) For EBT services reinitiated after a child, youth or young adult is discharged, payment will be made for up to 90 days if reinitiation of services was requested within 60 days after discharge and there is a written order that complies with § 1155.32(1)(ii)—(iv).]

(a) Payment will be made to a licensed IBHS agency for group services if the following conditions are met:

(1) There is a written order for group services that meets the requirements of § 1155.32(a)(1) (relating to payment conditions for individual services).

(2) A face-to-face assessment has been completed by a graduate-level professional within 15 days of the initiation of group services and prior to completing the ITP in accordance with § 5240.95 (relating to assessment) or a face-to-face assessment has been reviewed and updated within 12 months of the previous face-to-face assessment.

(3) The assessment and all updates have been signed by the staff person who completed the assessment.

(4) An ITP based upon the assessment and written order for group services has been completed within 30 days after the initiation of services in accordance with § 5240.96 (relating to individual treatment plan) or an ITP has been reviewed and updated within 6 months of the previous ITP.

(5) The ITP and all updates have been reviewed and signed by the youth, young adult, or [at least one] parent or legal guardian of the child or youth, the staff person who completed the ITP and an individual who meets the qualifications of a clinical director in § 5240.12 (relating to staff qualifications).

(6) For continued group services, a child, youth or young adult shall have an order written within 12 months of the initiation of services that complies with § 1155.32(a)(1)(ii)—(iv).

(b) Payment will be made to a licensed IBHS agency for individual interventions provided as part of group services when included in the child's, youth's or young adult's ITP.

(c) Payment will be made to a licensed IBHS agency for group services for up to 45 days after initiation of services, if there is a written order for services that complies with subsection (a)(1) and there is a treatment plan for the group services provided.

**§ 1155.35. Payment conditions for [group services] EBT delivered through individual services, ABA services or group services.**

[Payment will be made to a licensed IBHS agency for group services if all of the following conditions are met:

(1) There is a written order for group services that meets the requirements of § 1155.32(1) (relating to payment conditions for individual services).

(2) A comprehensive face-to-face assessment has been completed by a mental health professional within 5 days of the initiation of group services and prior to developing the ITP in accordance with § 5240.105 (relating to assessment), or a comprehensive face-to-face assessment has been reviewed and updated within the last 6 months or a comprehensive face-to-face assessment has been reviewed and updated because one of the following has occurred:

(i) A parent or caregiver of a child or youth requests an update.

(ii) A young adult or youth requests an update.

(iii) A child or youth experiences a change in living situation that results in a change of the child's or youth's primary caregivers.

(iv) The child, youth or young adult completes an ITP goal.

(v) The child, youth or young adult is not progressing towards the goals identified in the ITP within 90 days from the initiation of services identified in the ITP.

(vi) The child, youth, young adult or the family experiences a crisis event.

(vii) An IBHS agency staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services determines an update is needed.

(3) The assessment and all updates have been signed by the mental health professional that completed the assessment and the mental health professional's supervisor.

(4) An ITP based upon the assessment and written order for group services has been developed within 10 days after the initiation of services in accordance with § 5240.106 (relating to individual treatment plan), an ITP has been reviewed and updated within the last 6 months or an ITP has been reviewed and updated because one of the following has occurred:

(i) An ITP goal is completed.

(ii) No significant progress is made within 45 days from the initiation of group services identified in the ITP.

(iii) A youth or young adult requests a change.

(iv) A parent or caregiver of a child or youth requests a change.

(v) The child, youth or young adult experiences a crisis event.

(vi) The ITP is no longer clinically appropriate for the child, youth or young adult.

(vii) An IBHS agency staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services recommends a change.

(5) The ITP and all updates have been reviewed and signed by the youth, young adult, or at least one parent or caregiver of the child or youth, the mental health professional who developed the ITP and the IBHS clinical director.

(6) For continued group services, a child, youth or young adult shall have an order written in the last 6 months that complies with § 1155.32(1)(ii)—(iv).

(7) For group services reinitiated after a child, youth or young adult is discharged, payment will be made for up to 90 days if reinitiation of services was requested within 60 days after discharge and there is a written order that complies with § 1155.32(1)(ii)—(iv).]

(a) Payment will be made to a licensed IBHS agency for EBT delivered through individual services, ABA services or group services if the following conditions are met:

(1) There is a written order for EBT that meets the requirements of § 1155.32(a)(1), § 1155.33(a)(1) or § 1155.34(a)(1) (relating to payment conditions for individual services; payment conditions for ABA services; and payment conditions for group services).

(2) A face-to-face assessment has been completed by an individual with the qualifications required by the EBT within 15 days of the initiation of the services and prior to completing the ITP in accordance with § 5240.102 (relating to assessment and individual treatment plan) or a face-to-face assessment has been reviewed and updated within 12 months of the previous face-to-face assessment.

(3) The assessment and all updates have been signed by the staff person who completed the assessment.

(4) An ITP based upon the assessment and the written order for services has been completed within 30 days of the initiation of services in accordance with § 5240.102 or an ITP has been reviewed and updated within 6 months of the previous ITP.

(5) The ITP and all updates have been reviewed and signed by the youth, young adult, or [at least one] parent or legal guardian of the child or youth, the staff person who completed the ITP and an individual who meets the qualifications of a clinical director in § 5240.12 (relating to staff qualifications).

(6) For continued EBT, a child, youth or young adult shall have an order written within 12 months of the initiation of services that complies with § 1155.32(a)(1)(ii)—(iv), § 1155.33(a)(1)(ii)—(iv) or § 1155.34(a)(1)(ii)—(iv).

(7) The IBHS agency or the individual providing the EBT has certification or licensure from the National certification organization or entity that developed or owns the EBT.

(8) Services are delivered in accordance with the specific EBT.

(b) Payment will be made to a licensed IBHS agency for EBT delivered through individual services, ABA services or group services for up to 45 days after initiation of services, if there is a written order for services that complies with subsection (a)(1) and there is a treatment plan for the EBT provided.

### **§ 1155.36. Covered services.**

The Department will pay for the following IBHS when the services are medically necessary:

(1) Individual services, which include:

(i) [Services provided by a behavior specialist] Behavior consultation services.

(ii) [Services provided by a mobile therapist] Mobile therapy services.

(iii) [Services provided by a behavioral] Behavioral health technician services.

(2) ABA services, which include:

(i) [Services provided by a behavior specialist analyst] Behavior analytic services.

(ii) [Services provided by an assistant behavior specialist analyst] Behavior consultation-ABA services.

(iii) [Services provided by a behavioral health technician-ABA] Assistant behavior consultation-ABA services.

(iv) Behavioral health technician-ABA services.

(3) [EBT] Group services.

(4) [Group services] EBT delivered through individual services, ABA services or group services.

(5) Services approved through the program exception process under § 1150.63 (relating to waivers).

### **§ 1155.37. Limitations.**

Payment is subject to the following limitations:

(1) Services provided to a child, youth or young adult must be included in the agency's approved service description.

(2) Services provided to a child, youth or young adult residing in a 24-hour residential facility will not be paid for unless the IBHS is ordered in accordance with § 1155.32(a)(1), [or] § 1155.33(a)(1) or § 1155.34(a)(1) (relating to payment conditions for individual services; payment conditions for ABA services; and payment conditions for group services), [and are provided within 60 days of discharge from the facility to assist in a child's, youth's or young adult's transition to the home or community setting] the order explains why services are needed in addition to services provided by the facility[,] and the service does not duplicate services included in the facility's rate.

## **UTILIZATION REVIEW**

### **§ 1155.41. Scope of claims review procedures.**

Claims submitted for payment under the MA Program are subject to the utilization review procedures in Chapter 1101 (relating to general provisions).

## **ADMINISTRATIVE SANCTIONS**

### **§ 1155.51. Provider misutilization.**



If an IBHS agency is determined to have billed for services inconsistent with MA Program regulations, to have provided services outside the scope of customary standards of clinical practice or to have otherwise violated the standards in the provider agreement, the IBHS agency is subject to the sanctions in Chapter 1101 (relating to general provisions).

**PART VII. MENTAL HEALTH MANUAL**  
**Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES**  
**CHAPTER 5240. INTENSIVE BEHAVIORAL HEALTH SERVICES**

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## GENERAL PROVISIONS

### § 5240.1. Scope.

(a) This chapter applies to [all] entities that provide [IBHS] intensive behavioral health services (IBHS), as defined in this chapter, to children, youth or young adults [under 21 years of age] and [provides] sets forth the minimum requirements that shall be met for an agency to obtain a license to provide one or more IBHS.

(b) This chapter does not apply to individual licensed practitioners or group arrangements in which only licensed practitioners provide IBHS.

### § 5240.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless the context clearly indicates otherwise:

*ABA—Applied [behavioral] behavior analysis*—The design, implementation and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior or to prevent loss of attained skill or function[, which includes all of the following:] including the use of direct observation, measurement and functional analysis of the relations between environment and behavior.

[(i) The use of direct observation, measurement and functional analysis of the relations between environment and behavior.

(ii) The attempt to address one or more behavior challenges or skill deficits using evidence-based principles and practices of learning and behavior.

(iii) The analysis of the relationship between a stimulus, consequence or other variable. The changes of stimuli, consequences or other variables may occur individually, as a combination or in relationship with each other. The change of stimuli, consequences or other variables may be external or internal to the person whose behavior is being analyzed.

*ABSA—Assistant behavior specialist analyst.*]

*ASD—Autism spectrum disorder*—A pervasive neurodevelopmental disorder present from early childhood that involves maladaptive or restrictive behaviors, impairments in communication, and impairments in social interactions and relationships as described in the diagnostic criteria in the most recent edition of the *Diagnostic and Statistical Manual of Mental Disorders*.

*Aversive conditioning*—The application of startling, painful or noxious stimuli.

*BCaBA certification—Board-certified assistant behavior analyst certification—An undergraduate-level [professional certified] certification by the Behavior Analyst Certification Board [to provide ABA services].*

*BCAT certification—Board-certified autism technician certification—A [paraprofessional certified] certification by the Behavioral Intervention Certification Council [to provide ABA services].*

*BCBA certification—Board-certified behavior analyst certification—A graduate-level [professional certified] certification by the Behavior Analyst Certification Board [to design and provide ABA services]. BCBA refers to both master's (BCBA) and doctoral level credentials (BCBA-D).*

*BHT—Behavioral health technician.*

*BHT-ABA—Behavioral health technician-applied [behavioral] behavior analysis.*

*Caregiver—An individual with responsibility for the care and supervision of a [minor] child, youth or young adult.*

*Chemical restraint—The administration of a drug that has a temporary effect of restricting the child's, youth's or young adult's freedom of movement that is used to manage a child's, youth's or young adult's behavior and reduce a risk to the safety of the child, youth, young adult or others. Chemical restraint does not include standard treatment for the child's, youth's or young adult's medical or physical condition.*

*Child—A person under 14 years of age.*

*Community like setting—A setting that simulates a natural or normal setting for a child, youth or young adult.*

*[Consequence—A resulting directly measurable change of a child's, youth's or young adult's behavior produced by a change in a stimulus or stimuli.]*

*Department—The Department of Human Services of the Commonwealth.*

*EBT—Evidence-based therapy—Behavioral health therapy that uses scientifically established behavioral health interventions and meets one of the following:*

(i) Categorized as effective [in] by the Substance Abuse and Mental Health Services Administration's National Registry of Evidence-based Programs and Practices Administration in the Evidence-Based Practice Resource Center.

(ii) Categorized as Model or Model Plus in the Blueprints for Healthy Youth Development registry.

(iii) Categorized as well-established by the American Psychological Association's Society of Clinical Child and Adolescent Psychology.

(iv) Rated as having positive effects by the Institute of Education Sciences' What Works Clearinghouse.

[(v) Designated as a model intervention by the Department.]

*Formal support*—An agency, organization or person that provides assistance or resources to a child, youth or young adult within the context of an official role.

*Full-time equivalent*—37.5 hours per week of staff time.

*Group services*—Therapeutic interventions provided primarily in a group format through psychotherapy[,]; structured activities, including ABA services; and community integration activities that address a child's, youth's or young adult's identified treatment needs. [When included in a child's, youth's or young adult's ITP, group services may include individual interventions.]

*IBHS—Intensive behavioral health services*—An array of therapeutic interventions and supports provided to a child, youth or young adult in the home, school or other community setting.

*IBHS agency*—An entity that provides one or more IBHS.

*ITP—Individual treatment plan*—A detailed written plan of treatment services specifically tailored to address [each] a child's, youth's or young adult's therapeutic needs that contains the type, amount, frequency, setting and duration of services to be provided and the specific goals, objectives and interventions for [each] the service.

*Individual services*—Intensive [one-to-one] therapeutic interventions and supports that are used to reduce and manage identified therapeutic needs, increase coping strategies and support skill development to promote positive behaviors with the goal of stabilizing, maintaining or maximizing functioning of a child, youth or young adult in the home, school or other community setting.

*Initiation of service*—The first day an individual service, ABA service or group service is provided. This includes the first day an assessment is conducted.

*Manual restraint*—A physical hands-on technique that restricts the movement or function of a child, youth or young adult, or a portion of a child's, youth's or young adult's body. A manual restraint does not include the use of hands-on assistance [when] needed to enable a child, youth or young adult to achieve a goal or objective identified in [the] an ITP.

Mechanical restraint—The use of a device attached or adjacent to a child's, youth's or young adult's body that restricts freedom of movement or normal access to the child's, youth's or young adult's body which cannot easily be removed by the child, youth or young adult. A mechanical restraint does not include the use of a seat belt during movement or transportation or a device prescribed by a licensed medical professional.

Mental health direct service—[Working]Service that involves working directly with a child, youth or young adult to provide [a] mental health [service] treatment.

Natural support—An agency, organization or person that provides support to a child, youth or young adult in a personal or nonprofessional role.

Pressure-point technique—The application of pain for the purpose of achieving compliance. A pressure-point technique does not include a clinically-accepted bite release technique that is applied only to release a bite.

RBT certification—Registered behavior technician certification—A [paraprofessional certified] certification by the Behavior Analyst Certification Board [to implement an ITP that includes ABA services].

Restrictive procedure—A practice that limits or restricts a child's, youth's or young adult's freedom of movement, activity or function.

Seclusion—The involuntary confinement of a child, youth or young adult alone in a room or an area from which the child, youth or young adult is physically prevented from leaving.

[Stimulus—An event, circumstance or condition that can be changed or does change based upon the behavior specialist analyst's manipulation.]

Staff—Any individual, including an independent contractor or consultant, who works for an IBHS agency.

Systems of care principles—Guiding philosophies that form the essential elements of a coordinated network of community-based services and supports that is organized to meet the challenges of children, youth and young adults with serious mental health needs and their families that is family-driven and youth-guided and includes interagency collaboration, individualized strengths-based care, cultural and linguistic competence, community-based services and accountability.

Trauma—The result of an event, series of events or set of circumstances that is experienced by a child, youth or young adult as physically or emotionally harmful or threatening and that has lasting effects on the child's, youth's or young adult's functioning and physical, social, emotional or spiritual well-being.

*Trauma-informed approach*—[Recognizes]An approach that recognizes the widespread impact of trauma including the signs and symptoms of trauma and potential paths for recovery by integrating knowledge about trauma into policies, procedures and practices that avoids retraumatization.

*Treatment team*—Individuals involved in a child's, youth's or young adult's treatment. Members of the treatment team may include the child, youth, young adult, parents, legal guardians, caregivers, teachers, individuals who provide services and any individual chosen by the child, youth, young adult or parents or legal guardians of the child or youth to be part of the treatment team.

[*Variables*—An observed or manipulable condition that can be changed or does change and a directly measurable change of a child's, youth's or young adult's behavior produced by the change.]

*Young adult*—A person 18 years of age or older but under 21 years of age.

*Youth*—A person 14 years of age or older but under 18 years of age.

### **§ 5240.3. Provider eligibility.**

(a) [An] Except for IBHS agencies described in subsections (c)-(e), an IBHS agency shall obtain a license from the Department prior to beginning operations.

(b) [An IBHS agency that holds an outpatient psychiatric clinic, a psychiatric partial hospitalization program or a family based mental health license issued by the Department as of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*), is required to comply with this chapter as of that date.] Regardless of when a license is obtained, an IBHS agency shall comply with this chapter as of \_\_\_\_\_ (*Editor's Note: The blank refers to 90 days after the effective date of adoption of this final-form rulemaking.*).

(c) An IBHS agency that holds an outpatient psychiatric clinic, a psychiatric partial hospitalization program or a family based mental health license issued by the Department as of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*), [is required to] shall obtain a license under this chapter when [that] the license expires.

(d) An IBHS agency that is approved to provide ABA services shall [be required to] obtain a license under this chapter within 180 days of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*).

(e) An unlicensed IBHS agency that is currently approved to provide behavioral health rehabilitation services shall obtain a license under this chapter within 1 year of \_\_\_\_\_ (*Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.*).



(f) An IBHS agency shall meet the requirements in Chapter 20 (relating to licensure or approval of facilities and agencies).

**§ 5240.4. Organizational structure.**

(a) An IBHS agency shall have an administrative director, clinical director and staff.

(b) The organizational structure of the IBHS agency must be specified in an organizational chart, and the IBHS agency shall notify the Department within [10] 30 days of a change in the organizational structure of the IBHS agency.

**§ 5240.5. Service description.**

(a) As part of the initial licensing application, the IBHS agency shall submit to the Department for review and approval a written description of services to be provided that [must include] includes [all of] the following:

(1) Identification and description of each service offered by the IBHS agency.

[(2)] Purpose of the service being offered by the IBHS agency, expected duration of the service and expected outcomes for children, youth or young adults.]

[(3)] (2) Identification of the target population served by each service, including age range and presenting issues, which may include specific diagnoses.

[(4)] (3) The days and hours each service is available.

[(5)] (4) Identification of the counties where the IBHS agency provides each service.

[(6)] (5) Description of admission criteria.

[(7)] (6) Description of discharge criteria.

[(8)] (7) Description of [an] exclusionary criteria.

[(9)] (8) Staffing ratios for each service offered by the IBHS agency.

[(10)] Maximum number of children, youth or young adults that may be assigned to a BHT or BHT-ABA, if a BHT or BHT-ABA will be providing services.]

[(11)] (9) Treatment modalities.

[(12)] (10) Locations where [the service] services are offered.

(11) Maximum number of children, youth or young adults served at the same time through group services at a community setting or a community like setting.

(b) Prior to the IBHS agency changing its services or if the information in the service description is otherwise no longer accurate, the IBHS agency shall submit an updated service description to the Department for review and approval.

**§ 5240.6. Restrictive procedures.**

(a) The following restrictive procedures are prohibited:

(1) Seclusion.

(2) Aversive conditioning.

(3) Pressure-point technique.

(4) Chemical restraint.

(5) Mechanical restraint.

(6) A restrictive procedure that is not the least restrictive procedure.

(7) A restrictive procedure that does not maintain a child's, youth's or young adult's welfare and dignity.

(8) A restrictive procedure that limits a child's, youth's or young adult's access to food, drink or toilet.

(b) An IBHS agency that uses restrictive procedures shall have written policies and procedures that identify the specific restrictive procedures that may be used and when such restrictive procedures may be used.

[(a) A restrictive procedure] (c) A manual restraint shall only be used in an emergency situation to prevent self-injury or [to prevent] injury to others by a child, youth or young adult and only after [all of the following]:

(1) Every attempt has been made to anticipate and de-escalate the behavior [using methods of intervention that are less intrusive than a restrictive procedure].

(2) Less intrusive techniques and resources appropriate to the behavior have been tried [but have] and failed.

[(b) A manual restraint is the only restrictive procedure that may be used and] (d) A manual restraint may not:

(1) Apply pressure or weight on a child's, youth's or young adult's respiratory system.

(2) Use a prone position.

[(c)] (e) The position of the manual restraint or the staff person applying a manual restraint shall be changed at least every 10 minutes during the application of the manual restraint.

[(d) A staff person] (f) A trained individual who is not applying the manual restraint [procedure] shall observe and document the physical and emotional condition of the child, youth or young adult at least every 10 minutes during the application of the manual restraint.

[(e)] (g) A manual restraint shall be discontinued when the child, youth or young adult [demonstrates the ability to regain self-control] is no longer an imminent danger to self or others.

(h) Within 24 hours of using a manual restraint on a child, youth or young adult, an IBHS agency shall notify the treatment team.

(i) An IBHS agency shall document the use of a manual restraint in the child's, youth's or young adult's individual record in accordance with § 5240.41(a)(12) (relating to individual records).

[(f)] (j) An IBHS agency that uses manual restraints shall have policies and procedures for the use of manual restraints that shall include [all of] the following:

(1) Appropriate use of the manual restraint [procedure], including [all] prohibitions on the use of a manual restraint.

(2) Required use of less intrusive techniques and resources appropriate to the behavior prior to the use of a manual restraint [procedure].

(3) Immediate discontinuation of the manual restraint [procedure] when the child, youth or young adult [demonstrates the ability to regain self-control] is no longer an imminent danger to self or others.

(4) The staff who may authorize the use of a manual restraint.

(5) How the use of a manual restraint will be monitored.

[(g)] (k) An IBHS agency shall require yearly training that is approved by the Department for [each] staff [person] who [administers] administer a [manual restraint] restrictive procedure that includes [all of] the following:

(1) De-escalation techniques and strategies.

(2) Proper use of the [specific manual restraint procedure that] restrictive procedure, including what is appropriate for the age and weight of [the] a child, youth or young adult.

(3) Demonstrated experience in the proper use of the [manual restraint] restrictive procedure, including practice on other staff.

(4) A testing process to demonstrate the ability to properly apply the [specific manual restraint] restrictive procedure.

[(h)] (l) An IBHS agency shall keep a record of each staff person's training in the use of [manual restraint] restrictive procedures in each staff person's personnel file in accordance with § 5240.42(b)(2) (relating to agency records).

[(i) An IBHS agency shall document the use of any manual restraint procedure in the child's, youth's or young adult's individual record in accordance with § 5240.41(a)(11) (relating to individual records).]

(m) An IBHS agency that provides training to parents, legal guardians or caregivers on the use of restrictive procedures that are included in the child's, youth's or young adult's ITP shall use trainings approved by the Department and have policies and procedures that address training parents, legal guardians or caregivers on the use of restrictive procedures.

#### **§ 5240.7. Coordination of services.**

(a) An IBHS agency shall have written agreements to coordinate services with other service providers, including [all of] the following:

(1) Psychiatric inpatient facilities.

(2) Partial hospitalization programs.

(3) Psychiatric outpatient clinics.

(4) Crisis intervention programs.

(5) Mental health and intellectual or developmental disability case management programs.

(b) An IBHS agency shall update the written agreements with other service providers at least every 5 years.

(c) An IBHS agency shall have a list of community resources that provide behavioral health services that is available upon request by a parent, legal guardian, or caregiver

of a child or a youth, or a youth or young adult receiving services that includes [all of] the following:

- (1) The name of the program or organization.
- (2) Description of the services provided.
- (3) Address and phone number of the program or organization.
- (d) An IBHS agency shall update the community resource list annually.
- (e) An IBHS agency shall have a written referral process for children, youth and young adults whose therapeutic needs cannot be served by the agency. The IBHS agency shall document in [the records of the IBHS agency] its records [the] referrals made for a child, youth or young adult the IBHS agency could not serve.
- [(f) An IBHS agency that provides group services is not required to comply with subsections (a) and (b).]

## **STAFFING**

### **§ 5240.11. Staff requirements.**

- (a) An IBHS agency shall have an administrative director and a clinical director.
- (b) [The] An administrative director's responsibilities shall include [all of] the following:
  - (1) The overall daily management of the agency.
  - (2) [Setting work] Ensuring that staff schedules [to] meet the needs of the children, youth and young adults served and [that] accommodate their parents', legal guardians' or caregivers' schedules.
  - (3) Ensuring compliance with staff qualifications and training requirements.
  - (4) Monitoring the IBHS agency's compliance with this chapter.
  - (5) Developing and monitoring the quality improvement plan for the IBHS agency.
  - (6) Supervising staff who do not provide IBHS.
- (c) [The] An administrative director may also be [the] a clinical director if the person meets the qualifications for both positions.
- [(d) When an entity operates more than one IBHS agency, the administrative director may be responsible for more than one IBHS agency that is licensed under this chapter.]

(e) The administrative director shall dedicate a minimum of 7.5 hours each week for each IBHS agency that he directs.]

[(f)] (d) [The] A clinical director's responsibilities shall include [all of] the following:

(1) Ensuring [supervision is provided to all] that staff who provide IBHS are supervised in accordance with this chapter.

[(2)] Providing 1 hour of supervision to all staff that supervise other staff at least two times a month.]

[(3)] (2) Maintaining clinical oversight of IBHS provided.

[(4)] (3) Ensuring staff [that] who provide IBHS have access to supervisory staff during [all] the hours that IBHS are provided, including evenings and weekends.

[(5)] Conducting and documenting monthly staff meetings.]

[(6)] (4) Completing and documenting a clinical record review for quality of the [services] IBHS provided and compliance with this chapter and documenting the outcomes of the review [on a] quarterly [basis].

[(7)] (5) Ensuring that training for [IBHS agency] staff is being provided as required by this chapter.

[(g)] (e) An IBHS agency shall employ a sufficient number of qualified staff to comply with the administrative oversight, clinical supervision and monitoring requirements of this chapter.

[(h)] (f) An IBHS agency shall employ a sufficient number of qualified staff to provide the maximum number of service hours identified in the written order and the ITP for each child, youth or young adult admitted to services.

#### **§ 5240.12. Staff qualifications.**

(a) An administrative director of an IBHS agency shall meet one of the following:

(1) The qualifications for a clinical director in subsection (b).

(2) Have a [graduate] bachelor's degree in psychology, social work, counseling, education, human services, public administration, business administration or related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National

Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

[(3) Have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.]

(b) A clinical director of an IBHS agency shall have a minimum of 1 year of full-time postgraduate experience in the provision of mental health direct service to children, youth or young adults and meet [all] one of the following:

[(1) Have a minimum of 1 year of full-time postgraduate experience in the provision of mental health direct service to children, youth or young adults.

(2) Be licensed in this Commonwealth as a psychiatrist, psychologist, professional counselor, marriage and family therapist, or clinical social worker, or be licensed in this Commonwealth as a certified registered nurse practitioner and have a mental health certification or be licensed in this Commonwealth as a social worker with a graduate degree that required a clinical or mental health direct service practicum.]

(1) Be licensed in this Commonwealth as a physician practicing psychiatry, psychologist, professional counselor, marriage and family therapist, certified registered nurse practitioner with a mental health certification or clinical social worker.

(2) Be licensed in this Commonwealth as a behavior specialist and have a graduate degree that required a clinical or mental health direct service practicum from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(3) Be licensed in this Commonwealth as a social worker and have a graduate degree that required a clinical or mental health direct service practicum from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(4) Be licensed in this Commonwealth as a professional with a scope of practice that includes overseeing the provision of IBHS and have a graduate degree that required a clinical or mental health direct service practicum from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(c) This section does not apply to ABA services.

**§ 5240.13. Staff training plan.**

(a) An IBHS agency shall develop and implement a written plan [that ensures] to ensure initial and annual training requirements are met [which] that includes [all of] the following:

(1) A written individual training plan that is:

(i) Updated annually [based on the date of hire] for each staff person.

(ii) Based upon the staff person's educational level, experience, current job functions and performance reviews.

(iii) Appropriate to the staff person's skill level.

(2) An overall plan to ensure that staff receive training in accordance with this chapter [to provide IBHS] and in a manner that is consistent with the policies and procedures of the IBHS agency.

(3) An annual review and update of the IBHS agency training plan based on service outcomes and staff performance evaluations.

(b) An IBHS agency shall keep documentation of [the completed] completion of initial and annual training requirements in each staff person's personnel file in accordance with § 5240.42(b)(2) (relating to agency records).

(c) An IBHS agency shall accept documentation of [the] completion of initial or annual training requirements from a college, university, National training organization, training entity accepted by a professional licensing organization or the Department.

(d) An IBHS agency may choose to not require a staff person to complete additional training if the staff person has completed the required initial or annual training while working for another IBHS agency.



(e) An IBHS agency shall keep records of [all] initial and annual trainings that it provides to staff that includes documentation of [all of] the following:

- (1) The date, time and location of the training.
- (2) The name of the person who conducted the training and the person's qualifications to conduct the specific training.
- (3) The names of [IBHS agency] staff who participated in the training.
- (4) The specific topics addressed [at] during the training.
- (5) A copy of [any written] materials distributed to participants.
- (6) A copy of [any written] materials that were used during the training.
- (7) Department approval of the training.

**§ 5240.14. Criminal history checks and child abuse certification.**

(a) Criminal history checks and child abuse certification shall be completed in accordance with 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law) and Chapter 3490 (relating to protective services).

(b) An IBHS agency shall have written policies and procedures to ensure that staff having contact with children or youth comply with 23 Pa.C.S. §§ 6301—6386 and Chapter 3490, including [mandatory reporter] mandated reporting and training requirements.

**SERVICE PLANNING AND DELIVERY**

**§ 5240.21. Assessment.**

(a) [A comprehensive] Within 15 days of the initiation of services and prior to completing an ITP, a face-to-face assessment shall be completed [by a behavior specialist or mobile therapist] for [each] the child, youth or young adult by an individual qualified to provide behavior consultation services or mobile therapy services [within 15 days of the initiation of IBHS and prior to developing the ITP].

(b) The assessment shall be completed in collaboration with the child, youth, young adult or parent, legal guardian or caregiver of the child or youth, [and the child] as appropriate.

(c) The assessment shall be individualized and include [all of] the following:

- (1) The strengths and needs across developmental and behavioral domains of the child, youth or young adult.
- (2) The strengths and needs of the family system in relation to the child, youth or young adult.
- (3) Existing and needed natural and formal supports.
- (4) The specific services, skills, supports and resources the child, youth or young adult requires to address the child's, youth's or young adult's identified therapeutic needs.
- (5) The specific supports and resources, if any, the parent, legal guardian or caregiver of the child, youth or young adult requires to assist in addressing the child's, youth's or young adult's identified therapeutic needs.
- (6) Clinical information that includes [all of] the following:
  - (i) Treatment history.
  - (ii) Medical history.
  - (iii) Developmental history.
  - (iv) Family structure and history.
  - (v) Educational history.
  - (vi) Social history.
  - (vii) Trauma history.
  - (viii) Other relevant clinical information.
- (7) The child's, youth's or young adult's level of developmental, cognitive, communicative, social and behavioral functioning across the home, school and other community settings.
- (8) The cultural, language or communication needs and preferences of the child, youth or young adult and the parent, legal guardian or caregiver.
- (d) The assessment shall include a summary of the treatment recommendations received from health care providers, school or other service providers involved with the child, youth or young adult.
- (e) The assessment shall be reviewed and updated at least every [6] 12 months [and] or if one of the following occurs:

(1) A parent, legal guardian or caregiver of [a] the child or youth requests an update.

(2) [A young adult or youth] The youth or young adult requests an update.

(3) The child, [or] youth or young adult experiences a change in living situation that results in a change of the child's, [or] youth's or young adult's primary caregivers.

(4) The child, youth or young adult [completes an ITP goal] has made sufficient progress to require an update.

(5) [The child, youth or young adult is not progressing towards the goals identified in the ITP within 90 days from the initiation of services identified in the ITP] The child, youth or young adult has not made significant progress towards the goals identified in the ITP within 90 days from the initiation of the services.

(6) The child, youth[,] or young adult [or the family] experiences a crisis event.

(7) [An IBHS agency staff person] A staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services [determines] provides a reason an update is needed.

(f) The assessment and all updates shall be signed and dated by the [IBHS agency staff person that] staff person who completed the assessment [and the supervisor of the staff person that completed the assessment].

(g) This section does not apply to ABA services.

(h) Subsection (a) does not apply to EBT or group services.

#### **§ 5240.22. Individual treatment plan.**

(a) A written ITP shall be [developed] completed within 30 days after the initiation of a service and be based on the assessment completed in accordance with § 5240.21 (relating to assessment).

(b) The ITP must include the recommendations from the licensed professional who completed the written order for [the] IBHS in accordance with § 1155.32(a)(1) (relating to payment conditions for individual services).

(c) The ITP shall be strength-based with individualized goals and objectives to address the identified therapeutic needs for the child, youth or young adult to function at home, school or in the community.

(d) The ITP must include [all of] the following:

- (1) Service type and the number of hours of each service.
- (2) Whether and how parent, legal guardian or caregiver participation is needed to achieve the identified goals and objectives.
- (3) Safety plan to prevent a crisis, a crisis intervention plan and a transition plan.
- (4) Specific goals, objectives and interventions to address the identified therapeutic needs with definable and measurable outcomes.
- [(5) Type of staff providing the services.]
- [(6)] (5) Time frames to complete each goal.
- [(7)] (6) Settings where services may be provided.
- [(8)] (7) Number of hours of service at each setting.
- (e) The ITP shall be developed in collaboration with the child, youth, young adult or [at least one] parent, legal guardian or caregiver of [a] the child or youth, as appropriate.
- (f) The ITP shall be reviewed and updated at least every 6 months [and if] or if one of the following occurs:
- (1) [An ITP goal is completed] The child, youth or young adult has made sufficient progress to require that the ITP be updated.
- (2) [No] The child, youth or young adult has not made significant progress [is made] towards the goals identified in the ITP within 90 days from the initiation of the services [identified in the ITP].
- (3) [A] The youth or young adult requests [a change] an update.
- (4) A parent, legal guardian or caregiver of [a] the child or youth requests [a change] an update.
- (5) The child, youth or young adult experiences a crisis event.
- (6) The ITP is no longer clinically appropriate for the child, youth or young adult.
- (7) [An IBHS agency staff person] A staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services [recommends a change] provides a reason an update is needed.
- (8) The child, youth or young adult experiences a change in living situation that results in a change of the child's, youth's or young adult's primary caregivers.

(g) An ITP update must include the elements in subsection (d) and [all of] the following:

(1) A description of progress or lack of progress toward [the] previously identified goals and objectives.

(2) A description of any new goals, objectives and interventions.

(3) A description of any changes made to [the] previously identified goals, objectives or interventions.

(4) A description of [the] new interventions to be used to reach previously identified goals and objectives.

(h) The ITP and all updates shall be reviewed, signed and dated by the youth, young adult or [at least one] parent or [caregiver] legal guardian of [a] the child or youth, and the [IBHS] staff person who [developed] completed the ITP.

(i) The ITP and all updates shall be reviewed, signed and dated by [the supervisor of the staff person who developed the ITP] an individual who meets the qualifications of a clinical director in § 5240.12 (relating to staff qualifications).

(j) This section does not apply to [all of the following:] ABA services or group services.

[(1) ABA services.

(2) Group services.]

### **§ 5240.23. Service provision.**

(a) IBHS shall be provided in accordance with [each] the child's, youth's or young adult's ITP.

(b) Prior to the completion of the ITP, IBHS can be provided if there is a treatment plan for the individual services, ABA services or group services provided.

[(b)] (c) IBHS shall be delivered in home or community-based, clinically appropriate settings as identified in the written order and ITP. Group services may also be delivered in a community like setting.

[(c)] (d) IBHS shall be provided in accordance with the IBHS agency's approved service description under § 5240.5 (relating to service description).

## **DISCHARGE**

### **§ 5240.31. Discharge.**

(a) An IBHS agency may discharge a child, youth or young adult when one of the following occurs:

(1) The child, youth or young adult has completed the goals and objectives in the ITP and no new goals or objectives have been identified.

(2) The child, youth or young adult is not progressing towards the [identified] goals [as described] identified in the ITP [after] within 180 days from the initiation of [the IBHS] service and other clinical services are in place [to provide continuity of care].

(3) The child, youth or young adult requires a more restrictive service to meet the child's, youth's or young adult's needs and other clinical services are in place.

(4) The parent or [caregiver] legal guardian of a child or youth who provided consent to receive services [requests to discontinue services] agrees services should be discontinued.

(5) The youth or young adult [requests to discontinue services] agrees services should be discontinued.

(6) The child, youth or young adult failed to attend scheduled IBHS for 45 consecutive days without any notification from the youth, young adult or the parent, legal guardian or caregiver of the child or youth. Prior to discharge, the IBHS agency made at least three attempts to contact the youth, young adult or the parent, legal guardian or caregiver to discuss past attendance, ways to facilitate attendance in the future and the potential discharge of the child, youth or young adult for lack of attendance.

(b) An IBHS agency shall provide [all of] the following information to the youth, young adult or [at least one] parent, legal guardian or caregiver of the child upon discharge:

(1) If the child, youth or young adult has been referred to other services, contact information for each service.

(2) Contact information for the local crisis intervention service.

[(c) An IBHS agency may continue to serve a child, youth or young adult after the child, youth or young adult is discharged for up to 90 days if the youth, young adult, or parent or caregiver of the child or youth requests reinitiation of services within 60 days after the child, youth or young adult has been discharged from services when:

(1) The condition of the child, youth or young adult has regressed and impacts the child's, youth's or young adult's ability to maintain functioning at home, school or in the community.

(2) The written order meets the requirements in § 1155.32(1)(ii)—(iv) or § 1155.33(1)(ii)—(iv) (relating to payment conditions for individual services; and payment conditions for ABA).]

### **§ 5240.32. Discharge summary.**

(a) [An IBHS agency shall] An individual qualified to provide behavior consultation services, mobile therapy services, behavior analytic services or behavior consultation-ABA services shall complete a discharge summary for [each] the child, youth or young adult that includes [all of] the following:

(1) Summary of the service outcomes.

(2) Reason for discharge.

(3) Referral for services other than IBHS if needed.

[(4) Documentation of at least two telephone contacts within the first 30 days after discharge to monitor the status of maintaining treatment progress.]

(b) An IBHS agency shall ensure that the discharge summary is:

(1) Completed within 45 days after the date of discharge.

[(2) Reviewed and signed by the IBHS agency's clinical director.]

[(3)] (2) Provided to the youth, young adult or [at least one] parent, legal guardian or caregiver of the child.

## **RECORDS**

### **§ 5240.41. Individual records.**

(a) An IBHS agency shall maintain a record for each child, youth or young adult [served] it serves [which] that includes [all of] the following:

(1) Identifying information.

(2) A written order for IBHS in accordance with § 1155.32(a)(1), [or] § 1155.33(a)(1) or § 1155.34(a)(1) (relating to payment conditions for individual services; [and] payment conditions for ABA services; and payment conditions for group services).

(3) An assessment and any updates to the assessment in accordance with § 5240.21, § 5240.85, [§ 5240.92 or § 5240.105] § 5240.95 or § 5240.102.

(4) Presenting problems.

(5) The ITP and any updates to the ITP in accordance with § 5240.22, § 5240.86, [§ 5240.92 or § 5240.106] § 5240.96 or § 5240.102.

(6) A treatment plan if services are being provided prior to the completion of the ITP.

[(6)] (7) Documentation of any efforts to coordinate care with other services and community supports if needed.

[(7)] (8) Documentation of each service provided that includes [all of] the following:

(i) Date and time services were provided, duration of services and setting where services were provided.

(ii) Identification of the service provided to address a goal in the ITP.

(iii) Description of the outcome of the services provided.

(iv) Signature of the staff person providing the service.

[(8)] (9) If services are not provided in accordance with the ITP and written order, an explanation of the reason why services were not provided in accordance with the ITP and written order.

[(9)] (10) Consent to treatment and consent to release information forms.

[(10)] (11) Discharge summary in accordance with § 5240.32 (relating to discharge summary).

[(11)] (12) Documentation of any use of a manual restraint and a description of how the use [of the manual restraint procedure] was in accordance with § 5240.6 (relating to restrictive procedures), and used to prevent self-injury or to prevent injury to others by a child, youth or young adult, including all of] including the following:

(i) The specific behavior addressed.

(ii) The less intrusive methods of intervention used to address the behavior prior to initiating the manual restraint [procedure] used.

(iii) The specific manual restraint [procedure] used.

(iv) The name and training of the staff person who used the manual restraint [procedure].

(v) The duration of the manual restraint [procedure].



(vi) The name of the [staff person] trained individual who observed the child, youth or young adult during the application of the manual restraint [procedure].

(vii) The child's, youth's or young adult's condition following the manual restraint [procedure].

(viii) The date and time the manual restraint [procedure] was used.

(ix) The date and time the treatment team was notified of the use of a manual restraint and the members of the treatment team who were notified.

(b) The record [shall be maintained as follows] must be:

(1) Legible.

(2) Signed and dated by the staff [member] person writing in the record.

(3) Reviewed for quality [at least every 6 months] by the administrative director, clinical director or designated quality improvement staff within 6 months of the initial entry. After initial review, subsequent reviews may be limited to new additions to the record [since the prior review] and must occur at least annually.

(c) The record shall be maintained for a minimum of [10] 4 years after the last date of service.

#### **§ 5240.42. Agency records.**

(a) An IBHS agency shall maintain records that contain [all of] the following for at least 4 years:

(1) Inspection reports, certifications or licenses issued by State and local agencies.

(2) A detailed agency service description in accordance with § 5240.5 (relating to service description).

(3) A written emergency plan that includes, at a minimum, a plan for natural disasters, inclement weather and medical emergencies.

(4) Human resources policies and procedures that address [all of] the following:

(i) Job descriptions for staff positions.

(ii) Staff work schedules and time sheets.

(iii) Criminal history checks, child abuse certifications and training on and compliance with the mandated [reporter] reporting requirements in 23 Pa.C.S. §§ 6301—6386 (relating to Child Protective Services Law).

(5) Written agreements to coordinate services in accordance with § 5240.7 (relating to coordination of services).

(6) Daily schedules for group services if providing group services.

(7) Quality improvement [plans] plan in accordance with § 5240.61 (relating to quality improvement requirements).

(b) An IBHS agency shall maintain staff personnel records that include [all of] the following for at least 4 years after the staff person is no longer employed by the agency:

(1) Documentation of [staff's] staff credentials or qualifications.

(2) Documentation of completion of required training for [all] staff, including completion of continuing education credits required for professionally licensed staff [to maintain licensure] in accordance with the applicable professional regulations.

(3) [All criminal] Criminal history checks and child abuse certifications.

(4) The [staff's] staff person's individual training plan in accordance with § 5240.13 (relating to staff training plan).

#### **§ 5240.43. Record retention and disposal.**

An IBHS agency shall ensure that records that contain protected health information, both written and electronic, are secured, maintained and disposed of in accordance with [all] applicable Federal and State privacy and confidentiality statutes and regulations.

### **NONDISCRIMINATION**

#### **§ 5240.51. Nondiscrimination.**

An IBHS agency may not discriminate against staff or children, youth or young adults receiving services on the basis of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity or expression, sexual orientation, national origin or age, and shall comply with [all] applicable Federal and State statutes and regulations.

### **QUALITY IMPROVEMENT**

#### **§ 5240.61. Quality improvement requirements.**

(a) An IBHS agency shall establish and implement a written quality improvement plan that meets [all of] the following requirements:

(1) Provides for an annual review of the quality, timeliness and appropriateness of services that includes [all of] the following:

(i) [Individual record reviews] Review of individual records.

(ii) Review of individual and family satisfaction information.

(iii) Assessment of the outcomes of services delivered and if ITP goals have been completed.

(iv) [An evaluation] Evaluation of compliance with the agency's approved service description and licensure requirements in this chapter.

(2) Identifies [the type of review and] the methodology for the review of agency and individual records that includes [all of] the following:

(i) Method for establishing sample size of agency and individual records.

(ii) Frequency of review of the agency and individual records to prepare for the annual quality review in subsection (a)(1).

(iii) Staff's qualifications [to] who perform the review.

(b) An IBHS agency shall prepare [a] an annual quality report that includes [all of] the following:

(1) [Documentation and analysis] Analysis of the findings of the annual quality review required under subsection (a)(1).

(2) Identification of the actions to address annual review findings.

(c) An IBHS agency shall make annual quality reports available to the public upon request.

(d) An IBHS agency shall provide written notification that a copy of the annual quality report may be requested by [the] a youth, young adult or parent, legal guardian or caregiver of a child, youth or young adult upon admission to services.

## **INDIVIDUAL SERVICES**

### **§ 5240.71. Staff qualifications for individual services.**

(a) Except as set forth in subsection (b), [a behavior specialist who provides individual services shall] individuals who provide individual services through behavior consultation services must meet one of the following:

(1) Be licensed in this Commonwealth as a behavior specialist.

(2) Have a [current] certification as a BCBA [from the Behavior Analyst Certification Board] or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(3) Have a graduate degree in ABA from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

[(3)] (4) Have a [graduate degree in psychology, ABA, social work, education, counseling or related field that includes a clinical or mental health direct service practicum from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation and a] minimum of 1 year of full-time experience in providing mental health direct services to children, youth or young adults and a graduate degree in psychology, social work, education, or counseling from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

[(4) Have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services and a minimum of 1 year of full-time experience in providing mental health direct services to children, youth or young adults. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.]

(5) Completed a clinical or mental health direct service practicum and have a graduate degree in psychology, social work, education, counseling or a related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditations or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of

Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(b) [Behavior specialists] Individuals who provide [individual] behavior consultation services to children diagnosed with ASD for the treatment of ASD shall meet the qualifications for [a behavior specialist analyst] an individual who provides behavior analytic services or behavior consultation-ABA services in § 5240.81[(c)] (d) or (e) (relating to staff qualifications for ABA services).

(c) [A mobile therapist who provides individual services] Individuals who provides individual services through mobile therapy services shall meet one of the following:

(1) Be licensed in this Commonwealth as a psychologist, professional counselor, marriage and family therapist[,] or clinical social worker.

(2) Be licensed in this Commonwealth as a social worker or a behavior specialist [with] and have a graduate degree that required a clinical or mental health direct service practicum from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(3) Have a [graduate degree in psychology, social work, education or related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation and a] minimum of 1 year of full-time experience in providing mental health direct services to children, youth or young adults and a graduate degree with at least nine credits specific to clinical practice in psychology, social work or counseling from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

[(4) Have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services and a minimum of 1 year of full-time experience in providing mental health direct services to children, youth or young adults. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.]

(4) Completed a clinical or mental health direct service practicum and have a graduate degree with a least nine credits specific to clinical practice in psychology, social work, education, counseling or a related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

[(d) A BHT who provides individual services shall have or obtain within 18 months of being hired by an IBHS agency as a BHT or by \_\_\_\_\_ (*Editor's Note: The blank refers to 730 days after the effective date of adoption of this proposed rulemaking.*), whichever is later, a current RBT, BCAT or other behavior analysis certification that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute, or a current BHT certification from the Pennsylvania Certification Board. If the BHT does not have the required certification, the BHT can provide individual services for 18 months after being hired by an IBHS agency as a BHT or by \_\_\_\_\_ (*Editor's Note: The blank refers to 730 days after the effective date of adoption of this proposed rulemaking.*), whichever is later, if the BHT meets one of the following:

(1) Has a bachelor's degree in psychology, social work, counseling, sociology, education or related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation.

(2) Has an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(3) Has an associate's degree or at least 60 credits towards a bachelor's degree and a minimum of 1 year of full-time experience in providing mental health direct services to children, youth or young adults.

(4) Has a Pennsylvania license as a registered nurse and a minimum of 1 year of full-time experience in providing mental health direct services to children, youth or young adults.]

(d) By January 1, 2021, individuals who provide individual services through BHT services shall meet one of the following:

(1) Have a certification as a BCaBA.

(2) Have a certification as an RBT.

(3) Have a certification as a BCAT.

(4) Have a behavior health certification or behavior analysis certification from an organization that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(5) Have a high school diploma or the equivalent of a high school diploma and have completed a 40-hour training covering the RBT Task List as evidenced by a certification that includes the name of the responsible trainer, who is certified as a BCBA or BCaBA.

(6) Have a minimum of 2 years of experience in the provision of behavioral health services.

**§ 5240.72. Supervision of staff who provide individual services.**

[(a) Supervision shall be provided by an IBHS supervisor to all staff that provide individual services. Supervision shall include all of the following:

(1) One hour of supervision of behavior specialists and mobile therapists two times a month.

(2) One individual face-to-face session a month for each IBHS staff person.

(3) Thirty minutes of direct observation of services being provided by each IBHS staff person every 3 months.

(4) Case reviews for each IBHS staff person each month that include all of the following:

(i) The interventions being implemented.

(ii) ITP implementation status.

(iii) Adjustments needed to the ITP goals.

(iv) Staff person's skill in implementing the ITP interventions.

(b) In addition to the requirements in subsection (a)(2)—(4), an IBHS supervisor shall provide a BHT with the following supervision:

(1) Six hours of onsite supervision during the provision of services to a child, youth or young adult prior to providing services independently.

(2) Onsite supervision during the provision of services to a child, youth or young adult at least quarterly for a minimum of 30 minutes.

(3) One hour of supervision each week if the BHT works at least 37.5 hours per week or 1 hour of supervision two times a month if the BHT works less than 37.5 hours a week.

(c) An IBHS supervisor shall meet one of the following:

(1) Be licensed in this Commonwealth as a psychologist, professional counselor, marriage and family therapist, or clinical social worker.

(2) Be licensed in this Commonwealth as a certified registered nurse practitioner and have a mental health certification.

(3) Be licensed in this Commonwealth as a social worker with a graduate degree that required a clinical or mental health direct service practicum.

(4) Have a graduate degree in psychology, ABA, social work, education or a related field that includes a clinical or mental health direct service practicum from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation and a minimum of 1 year of full-time experience in providing mental health direct services to children, youth or young adults.

(5) Have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services and a minimum of 1 year of full-time experience providing mental health direct services to children, youth or young adults. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.]

(a) An individual who meets the qualifications of a clinical director shall provide the following supervision to individuals who provide behavior consultation services and mobile therapy services:

(1) One hour of individual face-to-face supervision per month that includes oversight of the following:

(i) The interventions being implemented.

(ii) The child's, youth's or young adult's progress towards the goals of the ITP.

(iii) Consideration of adjustments needed to the ITP.

(iv) The staff person's skill in implementing the interventions in the ITP.

(2) If the individual who provides behavior consultation services or mobile therapy services supervises an individual who provides BHT services, the individual shall



receive an additional hour of face-to-face supervision per month that includes a discussion of the BHT services being provided.

(3) Thirty minutes of direct observation of services being provided every 6 months.

(b) An individual who meets the qualifications of a clinical director or is qualified to provide behavior consultation services or mobile therapy services shall provide the following supervision to individuals who provide BHT services:

(1) One hour of supervision each week if the individual who provides BHT services works at least 37.5 hours per week or 1 hour of supervision two times a month if the individual who provides BHT services works less than 37.5 hours a week. The supervision must be face-to-face and include only the individual being supervised and the supervisor.

(2) If the individual has not previously provided BHT services, 6 hours of onsite supervision during the provision of services to a child, youth or young adult prior to providing services independently.

(3) One hour of direct observation of the provision of individual services to a child, youth or young adult during the implementation of the ITP every 4 months, unless the individual meets the qualifications to provide BHT services included in § 5240.71(d)(5) (relating to staff qualifications for individual services). If the individual meets the qualifications to provide BHT services included in § 5240.71(d)(5), the individual shall receive 1 hour of direct observation of the provision of individual services to a child, youth or young adult during the implementation of the ITP every 2 months.

(4) The supervision must include oversight of the following:

(i) The interventions being implemented.

(ii) The child's, youth's or young adult's progress towards the goals of the ITP.

(iii) Consideration of adjustments needed to the ITP.

(iv) The staff person's skills in implementing the interventions in the ITP.

[(d)] (c) An [IBHS supervisor] individual may supervise a maximum of [nine] 12 full-time equivalent staff who provide individual services, but only nine of the full-time equivalent staff can provide BHT [staff] services.

[(e)] (d) Group supervision may be provided to no more than [nine mobile therapists, behavior specialists and BHTs in each session] 12 staff who provide individual services, but only nine of the staff can provide BHT services.

[(f)] (e) Face-to face supervision may be delivered through secure, real-time, two-way audio and video transmission that meets technology and privacy standards required by the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191[, 110 Stat. 1936]).

[(g)] (f) [An IBHS] A supervisor shall maintain documentation [which includes all of the following of all supervision sessions as part of a staff person's personnel file] about each supervision session in the supervised staff person's personnel file that includes the following:

- (1) The date of the supervision session.
- (2) The location and modality of the session, such as in-person or through secure, real-time, two-way audio [or] and video [medium] transmission.
- (3) The format of the session, such as individual, group or onsite.
- (4) The start and end time of the supervision session.
- (5) A narrative summary of the points discussed during the session.
- (6) The [dated] signature and signature date of the supervisor and the staff person receiving supervision.

[(h) An IBHS] (g) A supervisor shall be available to consult with staff during the hours that individual services are being provided, including evenings and weekends.

[(i) The clinical director may provide supervision if the IBHS agency employs nine or less full-time equivalent staff that provide individual services and have no staff that meet the qualifications of an IBHS supervisor.]

**§ 5240.73. [Staff training] Training requirements for staff who provide individual services.**

(a) An IBHS agency that provides individual services shall ensure that staff complete initial and annual training requirements.

(b) [A] An individual who provides behavior [specialist] consultation services [who is licensed in this Commonwealth or who does not have a current professional license] or mobile therapy services shall complete at least 16 hours of Department-approved training annually that is related to the [behavior specialist's] individual's specific job functions and is in accordance with the [behavior specialist's] individual training plan [as] required under § 5240.13 (relating to staff training plan).

[(c) A mobile therapist who is not licensed in this Commonwealth as a psychologist, professional counselor, marriage and family therapist, clinical social worker or social

worker shall complete at least 16 hours of Department-approved training annually that is related to the mobile therapist's specific job functions and is in accordance with the mobile therapist's individual training plan as required under § 5240.13.]

[(d)] (c) [A BHT] If the individual has not previously provided BHT services, the individual shall complete at least 30 hours of Department-approved training [before independently] prior to providing services independently [to a child, youth or young adult] that includes [all of] the following topics:

(1) Sections 6301—6386 of 23 Pa.C.S. (relating to Child Protective Services Law) and mandated reporting requirements.

(2) Crisis intervention skills, including risk management, de-escalation techniques and safety planning.

(3) Behavior management skills and coaching.

(4) Child and adolescent development.

(5) Overview of serious emotional disturbance and other behavioral and psychosocial needs of the [individuals] children, youth and young adults with whom the [BHT] individual works.

(6) Professional ethics, conduct and confidentiality.

(7) First aid, universal precautions and safety.

(8) Psychotropic medications, including common side effects.

[(e)] (d) [Within the first 6 months of employment as a BHT,] If an individual has not previously provided BHT services, the [BHT] individual shall complete at least 24 hours of Department-approved training within the first 6 months of providing BHT services that includes [all of] the following topics:

(1) Documentation skills.

(2) Systems of care principles.

(3) Overview of functional behavioral assessment.

(4) Ethnic, cultural and linguistic considerations of the community served.

(5) Strategies and interventions to engage children, youth or young adults and parents, legal guardians or caregivers in services, including family systems theory.

(6) Skills and techniques for working with families.

(7) Overview of community resources and child and youth-serving systems and processes.

(8) Cross-systems collaboration.

(9) Communication and conflict resolution skills.

(10) Basic individual education plan and special education information.

(11) Safe use of restrictive procedures in accordance with § 5240.6 (relating to restrictive procedures).

[(f) A BHT who has a current RBT, BCAT or other behavior analysis certification that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute may count hours of training required for certification towards the training requirements in subsections (d) and (e).

(g) A BHT who is certified as a BHT through the Pennsylvania Certification Board is deemed to have completed and is exempt from the training requirements in subsections (d) and (e).

(h) A BHT may substitute completed college coursework for any of the required training topics in subsection (d) or (e) by providing an official transcript and if needed other documentation to the IBHS agency that reflects that the coursework addressed a required training topic.]

[(i)] (e) [A] An individual who provides BHT services shall complete at least 20 hours of Department-approved training annually that is related to the [BHT's] individual's specific job functions and is in accordance with the [BHT's] individual training plan required under § 5240.13.

(f) An individual who provides BHT services may substitute completed college coursework for required training topics in subsection (d) or (e) by providing an official transcript and other documentation to the IBHS agency that reflects that the coursework addressed a required training topic.

[(j)] (g) [A BHT] An individual who [has a current RBT, BCAT or other behavior analysis certification that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute] is certified may count hours of [continuing] training required to maintain [the BHT's] certification towards the [continuing] training requirement in [subsection] subsections [(i)] (b)–(f).

(h) An individual who is licensed in this Commonwealth may count hours of training required to maintain licensure towards the training requirements in subsections (b)–(f).

#### **§ 5240.74. Individual services initiation requirements.**

(a) An IBHS agency shall provide individual services to a child, youth or young adult in accordance with a written order under § 1155.32(a)(1) (relating to payment conditions for individual services).

(b) Prior to the initiation of individual services, the IBHS agency shall obtain written consent to receive the individual services identified in the written order from the youth, young adult or parent or [caregiver] legal guardian of a child or youth.

**§ 5240.75. Individual services provision.**

(a) [A behavior specialist shall provide only the following services:] Behavior consultation services consist of clinical direction of services to a child, youth or young adult; development and revision of the ITP; oversight of the implementation of the ITP and consultation with a child's, youth's or young adult's treatment team regarding the ITP.

[(1) Assessment of behavioral needs.

(2) Design and direction of the implementation of behavioral interventions in the ITP.

(3) Identification of behavioral goals in measurable terms and selection of appropriate interventions for inclusion in the ITP.

(4) Review, analysis and interpretation of data to determine any changes to goals and objectives included in the ITP.

(5) Consultation to mobile therapists or BHTs on behavioral management protocols.

(6) Review of clinical outcomes for the behavioral interventions being implemented in the treatment plan with the youth, young adult, or parent or caregiver of the child to determine effectiveness of the individual services on a monthly basis.]

(b) [A mobile therapist shall provide only the following services:] Mobile therapy services consist of individual therapy, family therapy, development and revision of the ITP, assistance with crisis stabilization and assistance with addressing problems the child, youth or young adult has encountered.

[(1) Individual therapy.

(2) Family therapy.

(3) Assessment of the strengths and therapeutic needs of the child, youth or young adult and family or caregiver.

(4) ITP development.

(5) Assistance with crisis stabilization.

(6) Assistance with addressing problems the child, youth or young adult has encountered.]

(c) [A BHT shall provide only the following services as part of implementing the ITP:]  
BHT services consist of implementing the ITP.

[(1) Support of problem solving skill development.

(2) Instruction on how to understand, direct, interpret, manage and control feelings and emotional responses to situations.

(3) Assistance to the parent or caregiver to address the therapeutic needs of the child, youth or young adult.

(4) Psychoeducational services related to mental health, including the development of improved decision making skills to manage behavior.

(5) Assistance with the development of social skills and socially acceptable behaviors.

(6) Instruction on stress reduction techniques.

(7) Collection of data.

(8) Behavioral stabilization and interventions to support services provided by a behavior specialist or mobile therapist.

(9) Referrals to other necessary services and supports.]

(d) [A] An individual who provides BHT services may not provide interventions requiring skills, experience, credentials or licensure that the [BHT] individual does not possess.

[(e) A BHT may not develop or revise the ITP goals, objectives or interventions.]

## **APPLIED [BEHAVIORAL] BEHAVIOR ANALYSIS**

### **§ 5240.81. Staff qualifications for ABA services.**

(a) An administrative director of an IBHS agency that provides ABA services shall [have] meet one of the following:

(1) [A graduate] Have a bachelor's degree in ABA, psychology, social work, counseling, education, public administration, business administration or related field from a college or university accredited by an agency recognized by the United States Department of

Education or the Council for Higher Education Accreditation or an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(2) [An equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.] The qualifications for a clinical director in subsection (b).

[(b) A clinical director of an IBHS agency that provides ABA services shall be licensed in this Commonwealth as a psychiatrist, psychologist, certified registered nurse practitioner, professional counselor, marriage and family therapist, clinical social worker, behavior specialist, social worker or as a professional who within the scope of the licensed professional's practice may provide or supervise the provision of ABA. If the clinical director is licensed as a certified registered nurse practitioner, the clinical director shall have a mental health certification. If the clinical director is licensed as a social worker, the clinical director shall have a graduate degree that required a clinical or mental health direct service practicum. A clinical director shall also have one of the following:

(1) A current certification as a BCBA from the Behavior Analyst Certification Board or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(2) A graduate degree or graduate certificate in ABA from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation and a minimum of 1 year of full-time experience in the provision of ABA, provided that the clinical director obtains a BCBA certification from the Behavior Analyst Certification Board or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute within 3 years of the date the individual starts working as a clinical director for any IBHS agency.

(3) An equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services and a minimum of 1 year of full-time experience in the provision of ABA, provided that the clinical director obtains a BCBA certification from the Behavior Analyst Certification Board or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute within 3 years of the date the individual starts working as a clinical director for any IBHS agency. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(c) A behavior specialist analyst who provides ABA services shall have a Pennsylvania license as a psychologist, professional counselor, marriage and family therapist, clinical social worker, social worker or behavior specialist and have one of the following:

(1) A current certification as a BCBA from the Behavior Analyst Certification Board or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(2) A current certification as a BCaBA from the Behavior Analyst Certification Board or other undergraduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(3) A current certification as a behavior specialist analyst with a competency in ABA from the Pennsylvania Certification Board.

(4) A minimum of 12 credits in ABA from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation and 1 year of full-time experience in the provision of ABA.

(5) A minimum of 1 year of full-time experience in the provision of ABA under the supervision of a professional with a certification as a BCBA from the Behavior Analyst Certification Board or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(d) An ABSA who provides ABA services shall meet one of the following:

(1) Have the qualifications for licensure as a behavior specialist under 49 Pa. Code § 18.524 (relating to criteria for licensure as behavior specialist) except the experience required under subsection (c).

(2) Have a bachelor's degree in psychology, social work, counseling, education or related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation and a [current] certification as a BCaBA from the Behavior Analyst Certification Board or other undergraduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(3) Have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services and a [current] certification as a BCaBA from the Behavior Analyst Certification Board or other undergraduate-level certification in behavior analysis that is accredited by the National Commission for Certifying



Agencies or the American National Standards Institute. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(4) Have a bachelor's degree in psychology, social work, counseling, education or related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation and at least 12 credits in ABA from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation and 6 months of experience in providing ABA.

(5) Have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services and at least 12 credits in ABA from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services and 6 months of experience in providing ABA. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(e) A BHT-ABA who provides ABA services shall have or obtain within 18 months of being hired by an IBHS agency as a BHT-ABA or by \_\_\_\_\_ (*Editor's Note: The blank refers to 730 days after the effective date of adoption of this proposed rulemaking.*), whichever is later, a current RBT, BCAT or other behavior analysis certification that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute or a current BHT certification with a competency in ABA from the Pennsylvania Certification Board. If the BHT-ABA does not have the required certification, the BHT-ABA can provide ABA services for 18 months after being hired by an IBHS agency as a BHT-ABA or by \_\_\_\_\_ (*Editor's Note: The blank refers to 730 days after the effective date of adoption of this proposed rulemaking.*), whichever is later, if the BHT-ABA meets one of the following:

(1) Has a bachelor's degree in psychology, sociology, social work, nursing, counseling, education or related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation.

(2) Has an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(3) Has an associate's degree or at least 60 credits towards a bachelor's degree with 12 credits in providing ABA and a minimum of 1 year of full-time experience in the provision of ABA.]

(b) A clinical director of an IBHS agency that provides ABA services shall meet one of the following:

(1) Be licensed in this Commonwealth as a physician practicing psychiatry, psychologist, professional counselor, marriage and family therapist, certified registered nurse practitioner with a mental health certification, clinical social worker, social worker, behavior specialist or other professional with a scope of practice that includes overseeing the provision of ABA services and have one of the following:

(i) A certification as a BCBA or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(ii) A graduate degree or graduate certificate in ABA from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services and a minimum of 1 year of full-time experience in providing ABA services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(2) As of \_\_\_\_\_ (Editor's Note: The blank refers to the effective date of adoption of this final-form rulemaking.), be a licensed psychologist in this Commonwealth and have a minimum of 3 years of full-time experience in providing clinical oversight of an ABA program and a minimum of 40 hours of training related to ABA approved by the Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board.

(c) By July 1, 2022, a clinical director of an IBHS agency that provides ABA services shall meet one of the following:

(1) Be licensed in this Commonwealth as a physician practicing psychiatry, psychologist, certified registered nurse practitioner, professional counselor, marriage and family therapist, clinical social worker, behavior specialist, social worker or other professional with a scope of practice that includes overseeing the provision of ABA services and have a certification as a BCBA or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute and a minimum of 2 years of experience in providing ABA services.

(2) Be licensed in this Commonwealth as a psychologist and have a minimum of 5 years of full-time experience providing clinical oversight of an ABA program and a minimum of 40 hours of training related to ABA approved by the Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board.

(3) Be licensed in this Commonwealth as a psychologist and have a graduate degree or graduate certificate in ABA from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or have an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(d) Individuals who provide ABA services through behavior analytic services shall be licensed in this Commonwealth as a psychologist, professional counselor, marriage and family therapist, clinical social worker, social worker, behavior specialist, certified registered nurse practitioner or a professional with a scope of practice that includes overseeing the provision of ABA services and have a certification as a BCBA [from the Behavior Analyst Certification Board] or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(e) Individuals who provide ABA services through behavior consultation-ABA services shall meet one of the following:

(1) Be licensed in this Commonwealth as a psychologist, professional counselor, marriage and family therapist, clinical social worker, social worker, behavior specialist, certified registered nurse practitioner or a professional with a scope of practice that includes overseeing the provision of ABA services and have one of the following:

(i) A certification as a BCaBA or other undergraduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(ii) A minimum of 1 year of full-time experience providing ABA services and a minimum of 12 credits in ABA from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or the equivalent from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services.

(iii) A minimum of 1 year of full-time experience providing ABA services under the supervision of a professional with a certification as a BCBA [from the Behavior Analyst Certification Board] or other graduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute and a minimum of 40 hours of training related to ABA approved by the Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board.

(2) Be licensed in this Commonwealth as a psychologist and have a minimum of 1 year of full-time experience providing ABA services and a minimum of 40 hours of training related to ABA approved by the Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board.

(f) Individuals who provide ABA services through assistant behavior consultation-ABA services shall meet one of the following:

(1) Have the qualifications for licensure as a behavior specialist under 49 Pa. Code § 18.524 (relating to criteria for licensure as behavior specialist) except the experience required under subsection (c).

(2) Have a certification as a BCaBA or other undergraduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute and a bachelor's degree in psychology, social work, counseling, education or related field from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or its equivalency.

(3) Have a minimum of 6 months of experience in providing ABA services and a bachelor's degree in psychology, social work, counseling, education or related field and a minimum of 12 credits in ABA from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation or the equivalent from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services.

(g) By July 1, 2020, individuals who provide ABA services through BHT-ABA services shall meet one of the following:

(1) Have a certification as a BCaBA.

(2) Have a certification as an RBT.

(3) Have a certification as a BCAT.

(4) Have a behavior analysis certification from an organization that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute.

(5) Have a high school diploma or the equivalent of a high school diploma and have completed a 40-hour training covering the RBT Task List as evidenced by a certification that includes the name of the responsible trainer, who is certified as a BCBA or BCaBA.

(6) Have a minimum of 2 years of experience in providing ABA services and a minimum of 40 hours of training related to ABA approved by the Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board.

**§ 5240.82. Supervision of staff who provide ABA services.**

(a) [The ABA] An individual who meets the qualifications of a clinical director shall provide the following supervision to [all behavior specialist analysts] individuals who provide behavior analytic services and behavior consultation-ABA services [that includes all of the following]:

[(1) One hour of supervision two times a month.]

[(2)] (1) One hour of individual face-to-face [session each] supervision per month that includes oversight of the following:

[(3) Case reviews each month that include all of the following:]

(i) The [specific ABA] interventions being implemented.

(ii) [ITP implementation status] The child's, youth's or young adult's progress towards the goals of the ITP.

(iii) [Adjustments] Consideration of adjustments needed to the ITP [goals].

(iv) [Staff] The staff person's skills in implementing the interventions in the ITP [that use ABA].

(2) If the individual who provides behavior analytic services or behavior consultation-ABA services supervises an individual who provides assistant behavior consultation-ABA services or BHT-ABA services, the individual shall receive an additional hour of face-to-face supervision per month that includes a discussion of the assistant behavior consultation-ABA services or BHT-ABA serviced being provided.

(3) Thirty minutes of direct observation of services being provided every 6 months.

(b) [A behavior specialist analyst] An individual who meets the qualifications of a clinical director or is qualified to provide behavior analytic services or behavior consultation-ABA services shall provide the following supervision to [all ABSA staff] individuals who provide assistant behavior consultation-ABA services [that include all of the following]:

(1) One hour of supervision [each week if the ABSA works at least 37.5 hours per week or 1 hour of supervision] two times a month [if the ABSA works less than 37.5 hours a week]. The supervision must be face-to-face and include only the individual being supervised and the supervisor.

[(2) One individual face-to-face session a month.]

[(3)] (2) If the individual has not previously provided assistant behavior consultation-ABA services, [Six] 3 hours of onsite supervision during the provision of ABA services to a child, youth or young adult prior to providing ABA services independently.

[(4)] (3) Thirty minutes of direct observation of the provision of ABA services to a child, youth or young adult during the implementation of the ITP [goals] every [3] 6 months.

[(5) Case reviews] (4) The supervision [each month that] must include [all of] oversight of the following:

(i) The [specific ABA] interventions being implemented.

(ii) [ITP implementation status] The child's, youth's or young adult's progress towards the goals of the ITP.

(iii) [Adjustments] Consideration of adjustments needed to the ITP [goals].

(iv) [Staff] The staff person's skills in implementing the interventions in the ITP [that use ABA].

(c) [A behavior specialist analyst or an ABSA who] An individual who meets the qualifications of a clinical director or is qualified to provide behavior analytic services or behavior consultation-ABA services or an individual who is qualified to provide assistant behavior consultation-ABA services and has a [current] BCaBA [from the Behavior Analyst Certification Board] or other undergraduate-level certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute shall provide the following supervision to [all] individuals who provide BHT-ABA [staff] services [that includes all of the following]:

(1) One hour of supervision each week if the individual who provides BHT-ABA services works at least 37.5 hours per week or 1 hour of supervision two times a month if the individual who provides BHT-ABA services works less than 37.5 [hour] hours [per] a week. The supervision must be face-to-face and include only the individual being supervised and the supervisor.

[(2) One individual face-to-face session a month.]

[(3)] (2) If the individual has not previously provided BHT-ABA services, [Six] 6 hours of onsite supervision during the provision of ABA services to a child, youth or young adult prior to providing ABA services independently.

[(4)] (3) One hour of direct observation of the provision of ABA services to a child, youth or young adult during the implementation of the ITP [goals] every [3] 4 months, unless the individual meets the qualifications to provide BHT-ABA services included in § 5240.81(g)(5) (relating to staff qualifications for ABA services). If the individual meets the qualifications to provide BHT-ABA services included in § 5240.81(g)(5), the individual shall receive 1 hour of direct observation of the provision of ABA services to a child, youth or young adult during the implementation of the ITP every 2 months.

[(5) Case reviews] (4) The supervision [each month that] must include [all of] oversight of the following:

(i) The [specific ABA] interventions being implemented.

(ii) [ITP implementation status] The child's, youth's or young adult's progress towards the goals of the ITP.

(iii) [Adjustments] Consideration of adjustments needed to the ITP [goals].

(iv) [Staff] The staff person's skills in implementing the interventions in the ITP [that use ABA].

[(d) The clinical director may provide supervision if an IBHS agency that provides ABA employs nine or less full-time equivalent ABSA and BHT-ABA staff.]

[(e)] (d) Group supervision may be provided to no more than [nine behavior specialist analysts, ABSAs and BHT-ABAs in each session] 12 staff who provide ABA services, but only nine of the staff can provide BHT-ABA services.

[(f)] (e) [A behavior specialist analyst or an ABSA who meets the qualification to provide supervision in subsection (c)] An individual may supervise a maximum of [nine] 12 full-time equivalent [BHT-ABA] staff who provide ABA services, but only nine of the full-time equivalent staff can provide BHT-ABA services.

[(g)] (f) A supervisor shall be available to consult with staff during [all] the hours that ABA services are being provided, including evenings and weekends.

[(h)] (g) Face-to face supervision may be delivered through secure, real-time, two-way audio and video transmission that meets technology and privacy standards required by the Health Insurance Portability and Accountability Act of 1996 (Pub.L. No. 104-191[, 110 Stat. 1936]).

[(i)] (h) A supervisor shall maintain documentation [which includes all of the following of all supervision sessions as part of each staff's personnel file] about each supervision session in the supervised staff person's personnel file that includes the following:

- (1) The date of the supervision session.
- (2) The location and modality of the session, such as in-person or through a secure real-time, two-way audio [or] and video [medium] transmission.
- (3) The format of the session, such as individual, group or onsite.
- (4) The start and end time of the supervision session.
- (5) A narrative summary of the points discussed during the session.
- (6) The [dated] signature and signature date of the supervisor and the staff person receiving supervision.

**§ 5240.83. [Staff training] Training requirements for staff who provide ABA services.**

(a) An IBHS agency that provides ABA services shall ensure that all staff complete initial and annual training requirements.

(b) [A behavior specialist analyst who is licensed in this Commonwealth as a behavior specialist] An individual who provides behavior analytic services or behavior consultation-ABA services shall complete [all of the following:

(1) At least 45 hours of training related to ABA that is approved by the Behavior Analyst Certification Board or the Department before independently providing ABA services to a child, youth or young adult. ABA training completed prior to obtaining licensure as a behavior specialist may be counted towards the 45 hours of training related to ABA.

(2) At] at least 16 hours of training annually that is approved by the Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board [or the Department] that is related to the [behavior specialist analyst's] individual's specific job functions and is in accordance with the [behavior specialist analyst's] individual training plan [as] required under § 5240.13 (relating to staff training plan).

(c) [An ABSA who does not have a certification as a BCBA or BCaBA from the Behavior Analyst Certification Board, a certification as a BCAT from the Behavioral Intervention Certification Council, or another graduate or undergraduate certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute] An individual who provides assistant behavior consultation-ABA services shall complete [all of] the following:



(1) [At] If the individual does not have a certification as a BCBA, BCaBA, BCAT or other graduate or undergraduate certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute, at least 20 hours of training related to ABA that is approved by the Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board [or the Department] before independently providing ABA services to a child, youth or young adult.

(2) At least 20 hours of training annually that is approved by the Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board [or the Department] that is related to the [ABSA's] individual's specific job functions and is in accordance with the [ABSA's] individual training plan [as] required under § 5240.13.

(d) [A] An individual who provides BHT-ABA services [who does not have a certification as a BCaBA or RBT from the Behavioral Analyst Certification Board, a certification as a BCAT from the Behavioral Intervention Certification Council, BHT certification from the Pennsylvania Certification Board, or another undergraduate certification in behavior analysis that is accredited by the National Commission for Certifying Agencies or the American National Standards Institute] shall complete [all of] the following:

(1) Training in accordance with § 5240.73[(d), (e) and (h)](c), (d) and (f) (relating to [staff training] training requirements for staff who provide individual services).

[(2) At least 20 hours of training related to ABA that is approved by the Behavior Analyst Certification Board or the Department before independently providing ABA services to a child, youth or young adult.]

[(3)] (2) At least 20 hours of training annually related to ABA that is approved by the [Behavior Analyst Certification Board] Department or provided by a continuing education provider approved by the Behavior Analyst Certification Board [or the Department] that is related to the [BHT-ABA's] individual's specific job functions and is in accordance with the individual training plan [as] required under § 5240.13.

(e) An individual who is certified may count hours of training required to maintain certification towards the training requirement in subsections (b)–(d).

(f) An individual who is licensed in this Commonwealth may count hours of training required to maintain licensure towards the training requirements in subsections (b)–(d).

#### **§ 5240.84. ABA services initiation requirements.**

(a) An IBHS agency shall provide ABA services to a child, youth or young adult in accordance with a written order under § 1155.33(a)(1) (relating to payment conditions for ABA services).

(b) Prior to the initiation of ABA services, the IBHS agency shall obtain written consent to receive the ABA services identified in the written order from the youth, young adult or parent or [caregiver] legal guardian of a child or youth.

**§ 5240.85. Assessment.**

(a) [A comprehensive] Within 30 days of the initiation of ABA services and prior to completing the ITP, a face-to-face assessment shall be completed [by a behavior specialist analyst] for [each] the child, youth or young adult by an individual qualified to provide behavior analytic services or behavior consultation-ABA services [prior to developing the ITP].

(b) The assessment shall be completed in collaboration with the child, youth, young adult or parent, legal guardian or caregiver of the child or youth, as appropriate.

(c) The assessment shall be individualized and include [all of] the following:

(1) The strengths and needs across developmental and behavioral domains of the child, youth or young adult.

(2) The strengths and needs of the family system in relation to the child, youth or young adult.

(3) Existing and needed natural and formal supports.

(4) Clinical information that includes [all of] the following:

(i) Survey data gathered from a parent, legal guardian or caregiver.

(ii) Treatment history.

(iii) Medical history.

(iv) Developmental history.

(v) Family structure and history.

(vi) Educational history.

(vii) Social history.

(viii) Trauma history.

(ix) Adaptive skills assessment.

(x) Other relevant clinical information.

- (5) Completion of standardized behavioral assessment tools as needed.
- (6) Compilation of observational data to identify developmental, cognitive, communicative, behavioral and adaptive functioning across the home, school and other community settings.
- (7) Identification and analysis of skill deficits, [or] targeted behaviors or both, in measurable terms to address needs.
- (8) The cultural, language or communication needs and preferences of the child, youth or young adult and the parent, legal guardian or caregiver.
- (d) The assessment shall include a summary of the treatment recommendations received from health care providers, school or other service providers involved with the child, youth or young adult.
- (e) The assessment shall be reviewed and updated at least [annually] every 12 months [and when] or if one of the following occurs:
- (1) A parent, legal guardian or caregiver of [a] the child or youth requests an update.
- (2) [A] The youth or young adult requests an update.
- (3) [A] The child, [or] youth or young adult experiences a change in living situation that results in a change of the child's, [or] youth's or young adult's primary caregivers.
- (4) The child, youth or young adult [completes an ITP goal] has made sufficient progress to require an updated assessment.
- (5) [The child, youth or young adult is not progressing towards the goals identified in the ITP within 90 days from the initiation of the ABA services identified in the ITP] The child, youth or young adult has not made significant progress towards the goals identified in the ITP within 90 days from the initiation of the services.
- (6) The child, youth[,] or young adult [or the family] experiences a crisis event.
- (7) [The behavior specialist analyst, ABA clinical director,] A staff person, primary care physician, other treating clinician, case manager or other professional involved the child's, youth's or young adult's services [determines] provides a reason an update is needed.
- (f) The assessment and all updates shall be signed and dated by [the behavior specialist analyst that] the staff person who completed the assessment [and the ABA clinical director].

**§ 5240.86. Individual treatment plan.**

(a) A written ITP shall be [developed] completed by [the behavior specialist analyst] an individual qualified to provide behavior analytic services or behavior consultation-ABA services within [30] 45 days after the initiation of ABA services and be based on the assessment completed in accordance with § 5240.85 (relating to assessment).

(b) The ITP must include the recommendations from the licensed professional who completed the written order for ABA services in accordance with § 1155.33(a)(1) (relating to payment conditions for ABA services).

(c) The ITP must be strength-based with individualized goals and objectives to address the identified skill deficits, [or target] targeted behaviors[,] or both[,] for the child, youth or young adult to function at home, school or in the community.

(d) The ITP must include [all of] the following:

(1) Service type and number of hours [for each] of each service.

(2) Specific measurable long, intermediate and short-term goals and objectives to address socially significant behaviors, [or] skill deficits[,] or both.

(3) Delineation of the frequency of baseline behaviors, the treatment planned to address behaviors, [or] skill deficits[,] or both, and the frequency at which the child's, youth's or young adult's progress in achieving each goal is measured.

(4) Time frames to complete each goal.

(5) Whether and how parent, legal guardian or caregiver training, support and participation is needed to achieve the identified goals and objectives.

(6) ABA interventions that are tailored to achieving the child's, youth's or young adult's goals and objectives.

[(7) Type of staff providing the services.]

[(8)] (7) Settings where services may be provided.

[(9)] (8) Number of hours of service at each setting.

(9) Safety plan to prevent a crisis, a crisis intervention plan and a transition plan.

(e) The ITP shall be developed in collaboration with the child, youth, young adult or [at least one] parent, legal guardian or caregiver of [a] the child or youth, as appropriate.

(f) The ITP shall be reviewed and updated at least every 6 months [and if] or if one of the following occurs:

(1) [An ITP goal is completed] The child, youth or young adult has made sufficient progress to require that the ITP be updated.

(2) [No] The child, youth or young adult has not made significant progress [is made] towards the goals identified in the ITP within 90 days from the initiation of ABA services [identified in the ITP].

(3) The youth or young adult requests [a change] an update.

(4) A parent, legal guardian or caregiver of the child or youth requests [a change] an update.

(5) The child, youth or young adult experiences a crisis event.

(6) The ITP is no longer clinically appropriate for the child, youth or young adult.

(7) [A behavior specialist analyst, ABA clinical director,] A staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services [recommends a change] provides a reason an update is needed.

(8) The child, youth or young adult experiences a change in living situation that results in a change of the child's, youth's or young adult's primary caregivers.

(g) An ITP update must include the elements in subsection (d) and [all of] the following:

(1) A description of progress or lack of progress toward [the] previously identified goals and objectives.

(2) A description of any new goals, objectives and interventions.

(3) A description of any changes made to [the] previously identified goals, objectives or interventions.

(4) A description of any new interventions to be used to reach previously identified goals and objectives.

(h) The ITP and all updates shall be reviewed, signed and dated by the youth, young adult or [at least one] parent or [caregiver] legal guardian of a child or youth, and the [behavior specialist analyst] staff person who [developed] completed the ITP.

(i) The ITP and all updates shall be reviewed, signed and dated by [the ABA] an individual who meets the qualifications of a clinical director in § 5240.81 (relating to staff qualifications for ABA services).

**§ 5240.87. ABA services provision.**

[(a) A behavior specialist analyst utilizes behavioral interventions and environmental modifications to reduce or eliminate problem behaviors or skill deficits to achieve a positive change in the targeted behavior or skill deficit. A behavior specialist analyst shall provide only the following services:]

(a) Behavior analytic services and behavior consultation-ABA services consist of clinical direction of services to a child, youth or young adult; development and revision of the ITP; oversight of the implementation of the ITP and consultation with a child's, youth's or young adult's treatment team regarding the ITP.

[(1) Assessment of skill deficits and behavioral needs.

(2) ITP goals and objectives development to address the identified skill deficits and targeted behaviors.

(3) Selection and design of the appropriate behavioral interventions for the implementation of ABA services.

(4) Review, analysis and interpretation of data to determine any changes to selected behavioral interventions that may be needed to achieve identified goals and objectives.

(5) Supervision of staff providing ABA to the child, youth or young adult.

(6) Implementation of the ITP to assist the child, youth or young adult in achieving the goals of the ITP.]

(b) In addition to the services listed in subsection (a), behavior analytic services include functional analysis.

[(b)] (c) [An ABSA assists a] Assistant behavior consultation-ABA services consist of assisting an individual who provides behavior analytic services or behavior consultation-ABA services and providing face-to-face behavioral interventions. [An ABSA shall provide only the following services:

(1) Assistance to the behavior specialist analyst with the development of goals and objectives to address the skill deficits and targeted behaviors and the selection of appropriate behavioral interventions.

(2) Data collection.

(3) Review, analysis and interpretation of data to determine any changes to selected behavioral interventions under the supervision of a behavior specialist analyst.

(4) Implementation of the ITP to assist the child, youth or young adult in achieving the goals of the ITP.

(5) Training for the BHT-ABA or family in the implementation of behavioral interventions.]

[(c)] (d) [A] BHT-ABA [implements] services consist of implementing the ITP. [by providing face-to-face behavioral stabilization and support interventions, which includes only the following services:

(1) Collection of data under the direction of a behavior specialist analyst.

(2) Model interventions needed to assist the parent or caregiver to address the child's, youth's or young adult's goals and objectives specified in the ITP.

(3) Instruction on how the child, youth or young adult can direct, manage and control targeted behaviors.

(4) Assistance with the development of socially acceptable behaviors.

(5) Problem solving skill development to address skill deficits.

(6) Referrals to other necessary services and supports.]

[(d)] (e) [An ABSA and BHT-ABA] An individual who provides assistant behavior consultation-ABA services and BHT-ABA services may not provide interventions requiring skills, experience, credentials or licensure that the [ABSA or BHT-ABA] individual does not possess.

## [EVIDENCE-BASED THERAPY

### § 5240.91. EBT initiation requirements.

(a) An IBHS agency shall provide EBT to a child, youth or young adult in accordance with a written order under § 1155.34(1) (relating to payment conditions for EBT).

(b) Prior to the initiation of EBT service, the IBHS agency shall obtain written consent to receive the EBT services identified in the written order from the youth, young adult, or parent or caregiver of a child or youth.

### § 5240.92. Assessment and individual treatment plan.

(a) A comprehensive face-to-face assessment shall be completed by a staff person with the qualifications required by the EBT for each child, youth or young adult within 15 days of the initiation of the service in accordance with § 5240.21(b)—(d) and (f) (relating to assessment) and prior to developing the ITP.

(b) The assessment shall be reviewed and updated in accordance with § 5240.21(e) and (f).

(c) A written ITP shall be developed, reviewed and updated in accordance with § 5240.22 (relating to individual treatment plan).

**§ 5240.93. EBT requirements.**

(a) An IBHS agency shall have a certification or license from the National certification organization or entity that developed or owns the EBT if required to provide the EBT.

(b) An IBHS agency shall ensure that EBT is provided by staff that meet the qualifications and receive supervision as set forth in the EBT.

(c) An IBHS agency that is using an EBT shall have written policies and procedures to measure all of the following:

(1) The adherence to the implementation of the specific EBT.

(2) The outcomes of the EBT that incorporate review standards associated with the EBT.

(d) An IBHS agency using an EBT shall continuously monitor the fidelity to the EBT.

(e) An IBHS agency shall ensure that procedures related to and decisions about continuing services and discharge are made in accordance with the specific EBT.

(f) An IBHS agency that does not meet the standards of the EBT that is provided shall do all of the following:

(1) Have a corrective action plan that is approved by the National certification organization or the Department.

(2) Track the corrective action plan to ensure that the plan has been implemented.

(3) Complete the corrective action plan to meet the standards of the EBT within the time frame identified in the corrective action plan.]

**GROUP SERVICES**

**§ 5240.91. Staff requirements and qualifications for group services.**



(a) In addition to the staff required under § 5240.11 (relating to staff requirements), an IBHS agency that provides group services shall have a graduate-level professional who meets one of the following qualifications:

(1) The qualifications to provide behavior consultation services in § 5240.71(a) (relating to staff qualifications for individual services).

(2) The qualifications to provide mobile therapy services in § 5240.71(c).

(3) The qualifications to provide behavior analytic services in § 5240.81(d) (relating to staff qualifications for ABA services).

(4) The qualifications to provide behavior consultation-ABA services in § 5240.81(e).

(b) Group services may also be provided by an individual who meets one of the following:

(1) The qualifications to provide BHT services in § 5240.71(d).

(2) The qualifications to provide BHT-ABA services in § 5240.81(g).

(c) An IBHS agency that provides group services that include specialized therapies such as music, dance and movement, play or occupational therapies shall use clinical staff to provide the specialized therapies who meet one of the following:

(1) Are Nationally certified or licensed in this Commonwealth in the specific therapy.

(2) Are graduate-level professionals with a minimum of 12 graduate-level credit hours in the specialized therapy and a minimum of 1 year of supervised experience in the use of the specialized therapy technique.

**§ 5240.92. Supervision of staff who provide group services.**

(a) An individual who meets the qualifications of a clinical director shall provide the following supervision to a graduate-level professional:

(1) One hour of individual face-to-face supervision per month that includes oversight of the following:

(i) The specific interventions being implemented.

(ii) The child's, youth's or young adult's progress towards the goals of the ITP.

(iii) Consideration of adjustments needed to the ITP.

(iv) The staff person's skills in implementing the interventions in the ITP.

(2) If the graduate-level professional supervises an individual that provides BHT services or BHT-ABA services, the graduate-level professional shall receive an additional hour of face-to-face supervision per month that includes a discussion of the BHT or BHT-ABA services being provided.

(b) A graduate-level professional shall provide the following supervision to individuals who are qualified to provide BHT services or BHT-ABA services:

(1) One hour of supervision per week for an individual who works at least 37.5 hours per week and 1 hour of supervision two times per month for an individual who works less than 37.5 hours per week. The supervision must be face-to-face and include only the individual being supervised and the supervisor.

(2) The supervision must include oversight of the following:

(i) The interventions being implemented.

(ii) The child's, youth's or young adult's progress towards the goals of the ITP.

(iii) Consideration of adjustments needed to the ITP.

(iv) The staff person's skills in implementing the interventions in the ITP.

(c) Group supervision may be provided to no more than 12 staff who provide group services, but only nine of the staff can provide BHT services or BHT-ABA services.

(d) An individual may supervise a maximum of 12 full-time equivalent staff that provide group services, but only nine of the full-time equivalent staff can provide BHT services or BHT-ABA services.

(e) A supervisor shall be available to consult with staff during the hours that group services are provided, including evenings and weekends.

(f) Face-to face supervision may be delivered through secure, real-time, two-way audio and video transmission that meets technology and privacy standards required by the Health Insurance Portability and Accountability Act of 1996 (Pub.L. No. 104-191).

(g) A supervisor shall maintain documentation about each supervision session in the supervised staff person's personnel file that includes the following:

(1) The date of the supervision session.

(2) The location and modality of the session, such as in-person or through secure real-time, two-way audio and video transmission.

(3) The format of the session, such as individual, group or onsite.

(4) The start and end time of the supervision session.

(5) A narrative summary of the points discussed during the session.

(6) The signature and signature date of the supervisor and the staff person receiving the supervision.

**§ 5240.93 Training requirements for staff who provide group services.**

(a) An IBHS agency that provides group services shall ensure that staff complete initial and annual training requirements.

(b) A graduate-level professional who is qualified to provide behavior consultation services in accordance with § 5240.71(a) (relating to staff qualifications for individual services) shall complete the annual training requirements included in § 5240.73(b), (g) and (h) (relating to training requirements for staff who provide individual services).

(c) A graduate-level professional who is qualified to provide mobile therapy services in accordance with § 5240.71(c) shall complete the training required by § 5240.73(b), (g) and (h).

(d) A graduate-level professional who is qualified to provide behavior analytic services or behavior consultation-ABA services in accordance with § 5240.81(d) or (e) (relating to staff qualifications for ABA services) shall complete the training required by § 5240.83(b), (e) and (f) (relating to training requirements for staff who provide ABA services).

(e) An individual who meets the qualifications to provide BHT services in accordance with § 5240.71(d) shall complete the training required by § 5240.73(c)-(h) (relating to training requirements for staff who provide individual services).

(f) An individual who meets the qualifications to provide BHT-ABA services in accordance with § 5240.81(g) shall complete the training required by § 5240.83(d)-(f).

**§ 5240.94. Group services initiation requirements.**

(a) An IBHS agency shall provide group services to a child, youth or young adult in accordance with a written order under § 1155.34(a)(1) (relating to payment conditions for group services).

(b) Prior to the initiation of group services, the IBHS agency shall obtain written consent to receive the group services identified in the written order from the youth, young adult or parent or legal guardian of a child or youth.

**§ 5240.95. Assessment.**

(a) A face-to-face assessment shall be completed by a graduate-level professional for a child, youth or young adult within 15 days of the initiation of group services in accordance with § 5240.21(b)—(d) and (f) (relating to assessment) and prior to completing the ITP.

(b) The assessment shall be reviewed and updated in accordance with § 5240.21(e) and (f).

**§ 5240.96. Individual treatment plan.**

(a) A written ITP shall be completed by a graduate-level professional within 30 days after the initiation of group services and be based on the assessment completed in accordance with § 5240.95 (relating to assessment).

(b) The ITP must include the recommendations from the licensed professional who completed the written order for group services in accordance with § 1155.32(a)(1) and § 1155.34(a)(1) (relating to payment conditions for individual services; and payment conditions for group services).

(c) The ITP shall be strength-based with individualized goals and objectives to address the identified therapeutic needs for the child, youth or young adult to function at home, school or in the community.

(d) The ITP must include the following:

(1) Specific goals and objectives to address the identified therapeutic needs with definable and measurable outcomes.

(2) Whether and how parent, legal guardian or caregiver participation is needed to achieve the identified goals and objectives.

(3) Structured therapeutic activities, community integration activities and individual interventions to address identified therapeutic needs for the child, youth or young adult to function at home, school or in the community.

(4) Time frames to complete each goal.

(5) Settings where group services may be provided.

(6) Number of hours that group services will be provided to the child, youth or young adult.

(e) The ITP shall be developed in collaboration with the child, youth, young adult or parent, legal guardian or caregiver of the child or youth as appropriate.

(f) The ITP shall be reviewed and updated at least every 6 months or if one of the following occurs:

(1) The child, youth or young adult has made sufficient progress to require that the ITP be updated.

(2) The child, youth or young adult has not made significant progress towards the goals identified in the ITP within 90 days from the initiation of the services.

(3) The youth or young adult requests an update.

(4) A parent, legal guardian or caregiver of the child or youth requests an update.

(5) The child, youth or young adult experiences a crisis event.

(6) The ITP is no longer clinically appropriate for the child, youth or young adult.

(7) A staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services provides a reason an update is needed.

(8) The child, youth or young adult experiences a change in living situation that results in a change of the child's, youth's or young adult's primary caregivers.

(g) An ITP update must include the elements in subsection (d) and the following:

(1) A description of progress or lack of progress towards the previously identified goals and objectives.

(2) A description of any new goals, objectives and interventions.

(3) A description of any changes made to previously identified goals, objective or interventions.

(4) A description of new interventions to be used to reach previously identified goals and objectives.

(h) The ITP and all updates shall be reviewed, signed and dated by the youth, young adult or parent or legal guardian of the child or youth, and the staff person who completed the ITP.

(i) The ITP and all updates shall be reviewed, signed and dated by an individual who meets the qualifications of a clinical director in § 5240.12 (relating to staff qualifications).

**§ 5240.97. Group services provision.**

(a) A graduate-level professional may provide individual, group and family psychotherapy; design of psychoeducational group activities; clinical direction of services to a child, youth or young adult; create and revise the ITP; oversee implementation of the ITP and consult with the child's, youth's or young adult's treatment team regarding the ITP.

(b) An individual who meets the qualifications to provide BHT services or BHT-ABA services may assist with conducting group psychotherapy, facilitate psychoeducational group activities and implement the child's, youth's or young adult's ITP.

(c) Group services shall be structured to address the goals and objectives identified in the child's, youth's or young adult's ITP.

(d) Group services can be provided in a school, community setting or community like setting.

(e) An IBHS agency that provides group services and ABA services shall also comply with §§ 5240.81—5240.87 (relating to applied behavior analysis).

(f) A graduate-level professional shall be present while group services are being provided.

**§ 5240.98. Requirements for group services in school settings.**

A licensed IBHS agency that provides group services and identified a school as a location where services will be provided in its approved service description shall meet the following requirements:

(1) Have a written agreement with the authorized representative for each school location in which it provides group services that includes the following:

(i) Identification of the IBHS agency's and the school's lead contacts and their contact information.

(ii) Delineation of roles and responsibilities of the school and the IBHS agency staff.

(iii) Description of how the school and IBHS agency staff will collaborate during the provision of group services in the school.

(iv) A requirement for a meeting at least every 6 months between IBHS agency staff and school administration to review performance, collaboration issues and the written agreement.

(v) Crisis management protocols.

(vi) Procedures for school staff to refer students for group services.

(vii) Identification of the space and equipment allocated for use by IBHS agency staff.

(viii) Process for revising or updating the written agreement.

(2) IBHS agency and school staff involved with the child, youth or young adult receiving group services shall meet at least every 6 months to discuss the student's behavioral health services and progress related to school performance.

(i) A youth, young adult or parent or legal guardian of the child or youth shall be invited to participate in the meeting.

(ii) Other professionals as requested by a youth, young adult or parent or legal guardian of the child or youth shall be invited to participate in the meeting.

(3) An IBHS agency shall document the outcome of the meeting and include the following:

(i) Attendance.

(ii) Date of meeting.

(iii) Summary of the discussion.

(iv) Recommendations for a change in group service participation if discussed.

(v) Reason a meeting was not convened as required.

(4) An IBHS agency providing group services in school settings shall keep the child's, youth's or young adult's records in accordance with § 5240.41 (relating to individual records).

(5) An ITP for group services provided in school settings shall be developed in accordance with § 5240.96 (relating to individual treatment plan) and must include the following:

(i) Continuity of services when school is not in session.

(ii) Interventions that specifically address the child's, youth's or young adult's functioning in school.

(iii) Input from the teachers and guidance counselors directly involved with the child, youth or young adult receiving group services.

(6) An IBHS agency that provides group services and ABA services and provides the services in school settings shall comply with §§ 5240.81—5240.87 (relating to applied behavior analysis).

## [GROUP SERVICES

### § 5240.101. Staff requirements and qualifications.

(a) In addition to the staff required under § 5240.11 (relating to staff requirements), an IBHS agency that provides group services shall have a mental health professional.

(b) A mental health professional shall meet the qualifications for a mobile therapist in § 5240.71(c) (relating to staff qualifications).

(c) A mental health worker who provides group services shall have one of the following:

(1) A bachelor's degree in a recognized clinical discipline including social work, psychology, nursing, rehabilitation or activity therapy from a college or university accredited by an agency recognized by the United States Department of Education or the Council for Higher Education Accreditation, or an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or equivalency.

(2) A graduate degree in a recognized clinical discipline from a college or university accredited by an agency recognized by the United States Department of Education or Council for Higher Education Accreditation, or an equivalent degree from a foreign college or university that has been evaluated by the Association of International Credential Evaluators, Inc. or the National Association of Credential Evaluation Services. The Department will accept a general equivalency report from the listed evaluator agencies to verify a foreign degree or equivalency.

(d) A BHT who provides group services shall meet the qualifications in § 5240.71(d).

(e) An IBHS agency that provides group services which include specialized therapies such as music, dance and movement, play or occupational therapies shall use clinical staff to provide the specialized therapies that meet one of the following:

(1) Nationally certified in the specific therapy.

(2) Mental health professionals with at least 12 graduate-level credit hours in the specialized therapy and at least 1 year of supervised experience in the use of the specialized therapy technique.



(3) Mental health professionals supervised by a Nationally credentialed activities therapist.

**§ 5240.102. Supervision.**

(a) Supervision shall be provided to all staff that provide group services and include all of the following:

(1) The clinical director shall provide 1 hour of face-to-face supervision to each mental health professional at least two times a month.

(2) A mental health professional shall provide 1 hour of supervision each week for each mental health worker that works at least 37.5 hours per week and 1 hour of supervision two times a month for each mental health worker that works less than 37.5 hours a week.

(3) A mental health professional shall provide 1 hour of supervision each week for each BHT that works at least 37.5 hours per week, 1 hour of supervision two times a month for each BHT that works less than 37.5 hours a week and 6 hours of onsite supervision during the provision of group services to a child, youth or young adult prior to the BHT providing services independently.

(4) One individual face-to-face session each month for each IBHS staff person that provides group services.

(5) Group supervision may be provided to no more than nine IBHS staff that provide group services in each session.

(6) Case reviews for each IBHS staff person each month that include all of the following:

(i) The interventions being implemented.

(ii) ITP implementation status.

(iii) Adjustments needed to ITP goals.

(iv) Staff person's skills in implementing the ITP interventions.

(b) A mental health professional may supervise a maximum of nine full-time equivalent IBHS staff providing group services.

(c) A mental health professional shall be available to consult with staff during all hours that group services are provided, including evenings and weekends.

(d) Face-to face supervision may be delivered through secure, real-time, two-way audio and video transmission that meets technology and privacy standards required by the Health Insurance Portability and Accountability Act of 1996 (Pub.L. No. 104-191, 110 Stat. 1936).

(e) A mental health professional shall maintain documentation which includes at least the following of all supervision sessions as part of each staff person's personnel file:

(1) The date of the supervision session.

(2) The location and modality of the session, such as in-person or through secure audio or video medium.

(3) The format of the session, such as individual, group or onsite.

(4) The start and end time of the supervision session.

(5) A narrative summary of the points discussed during the session.

(6) The dated signature of the supervisor and the staff person receiving the supervision.

#### **§ 5240.103. Staff training requirements.**

(a) An IBHS agency that provides group services shall ensure that all staff complete initial and annual training requirements.

(b) A mental health professional that is not licensed in this Commonwealth as a psychologist, professional counselor, marriage and family therapist, clinical social worker or social worker shall complete at least 16 hours of Department-approved training annually that is related to the mental health professional's specific job functions and is in accordance with the mental health professional's individual training plan as required under § 5240.13 (relating to staff training plan).

(c) A mental health worker shall complete at least 20 hours of Department-approved training annually that is related to the mental health worker's specific job functions and is in accordance with the mental health worker's individual training plan as required under § 5240.13.

(d) A BHT shall complete training in accordance with § 5240.73(d)—(j) (relating to staff training requirements) and the individual training plan as required under § 5240.13.

#### **§ 5240.104. Group services initiation requirements.**

(a) An IBHS agency shall provide group services to a child, youth or young adult in accordance with a written order under § 1155.35(1) (relating to payment conditions for group services).

(b) Prior to the initiation of group services, the IBHS agency shall obtain written consent to receive the group services identified in the written order from the youth, young adult, or parent or caregiver of a child or youth.

#### **§ 5240.105. Assessment.**

(a) A comprehensive face-to-face assessment shall be completed by a mental health professional for each child, youth or young adult within 5 days of the initiation of group services in accordance with § 5240.21(b)—(d) and (f) (relating to assessment) and prior to developing the ITP.

(b) The assessment shall be reviewed and updated in accordance with § 5240.21(e) and (f).

#### **§ 5240.106. Individual treatment plan.**

(a) A written ITP shall be developed by the mental health professional within 10 days after the initiation of group services and be based on the assessment completed in accordance with § 5240.105 (relating to assessment).

(b) The ITP must include the recommendations from the licensed professional who completed the written order for group services in accordance with §§ 1155.32(1) and 1155.35(1) (relating to payment conditions for individual services; and payment conditions for group services).

(c) The ITP shall be strength-based with individualized goals and objectives to address the identified therapeutic needs for the child, youth or young adult to function at home, school or in the community.

(d) The ITP must include all of the following:

(1) Specific goals and objectives to address the identified therapeutic needs with definable and measurable outcomes.

(2) Whether and how parent or caregiver participation is needed to achieve the identified goals and objectives.

(3) Structured therapeutic activities, community integration activities and individual interventions to address identified therapeutic needs for the child, youth or young adult to function in the home, school or community.

(4) Type of staff providing the services.

- (5) Time frames to complete each goal.
- (6) Settings where group services may be provided.
- (7) Number of hours that group services will be provided to the child, youth or young adult.
- (e) The ITP shall be developed in collaboration with the youth, young adult, or at least one parent or caregiver of a child.
- (f) The ITP shall be reviewed and updated at least every 6 months and if:
  - (1) An ITP goal is completed.
  - (2) No significant progress is made within 45 days from the initiation of the services identified in the ITP.
  - (3) A youth or young adult requests a change.
  - (4) A parent or caregiver of a child or youth requests a change.
  - (5) The child, youth or young adult experiences a crisis event.
  - (6) The ITP is no longer clinically appropriate for the child, youth or young adult.
  - (7) An IBHS agency staff person, primary care physician, other treating clinician, case manager or other professional involved in the child's, youth's or young adult's services recommends a change.
- (g) An ITP update must include the elements in subsection (d) and all of the following:
  - (1) A description of progress or lack of progress towards the goals and objectives.
  - (2) A description of any new goals, objectives and interventions.
  - (3) A description of any changes made to the goals, objective or interventions.
  - (4) A description of new interventions to be used to reach previously identified goals and objectives.
- (h) The ITP and all updates shall be reviewed, signed and dated by the youth, young adult, or at least one parent or caregiver of a child or youth, and the mental health professional who developed the ITP.

(i) The ITP and all updates shall be reviewed, signed and dated by the IBHS clinical director.

**§ 5240.107. Group services provision.**

(a) A mental health professional shall provide only the following services:

- (1) Individual psychotherapy.
- (2) Group psychotherapy.
- (3) Family psychotherapy.
- (4) Design of psychoeducational group activities.
- (5) Assessment of the strengths and therapeutic needs of the child, youth or young adult.
- (6) ITP development.

(b) A mental health worker shall provide only the following services:

- (1) Assistance in conducting group psychotherapy.
- (2) Facilitation of psychoeducational group activities.
- (3) Implementation of the ITP to assist the child, youth or young adult achieve a goal.
- (4) Support of the child, youth or young adult with the development of appropriate behaviors and interpersonal relationships in the community.
- (5) Help for the child, youth or young adult to develop coping skills to aid in the development of age appropriate interpersonal relationships with peers.

(c) A BHT shall provide only the following services:

- (1) Assistance with the facilitation of psychoeducational group activities.
- (2) Instruction on how to manage and control emotional responses in group settings.
- (3) Behavioral stabilization and interventions that support the child, youth or young adult in community settings.
- (4) Problem solving skills modeling.

(d) Group services shall be structured to address the goals and objectives identified in each child's, youth's or young adult's ITP.

(e) Group services shall be provided in a school or other community setting and may be provided in an IBHS agency site if approved in the service description in accordance with § 5240.5(a)(12) (relating to service description).

(f) An IBHS agency that provides group services and ABA services shall also comply with §§ 5240.81—5240.87 (relating to applied behavioral analysis).

(g) An IBHS agency that provides group services and EBT shall comply with §§ 5240.91—5240.93 (relating to EBT initiation requirements; assessment and individual treatment plan; and EBT requirements).

**§ 5240.108. Requirements for group services in school settings.**

A licensed IBHS agency that provides group services and identified a school as a location where services will be provided in its approved service description shall meet all of the following requirements:

(1) Have a written agreement with the authorized representative for each school location in which it provides group services that includes all of the following:

(i) Identification of the IBHS agency's and the school's lead contacts and their contact information.

(ii) Delineation of roles and responsibilities of the school staff and the IBHS agency staff.

(iii) Assurances of the collaborative relationship between school staff and IBHS agency staff.

(iv) A requirement for quarterly meetings between IBHS staff and school administration to review performance, collaboration issues and the written agreement.

(v) Crisis management protocols.

(vi) Procedures for school staff to refer students for group services.

(vii) Identification of the space and equipment allocated for use by IBHS agency staff.

(viii) Process for revising or updating the written agreement.

(2) IBHS agency staff and the school staff involved with the child, youth or young adult receiving group services shall meet on a quarterly basis to discuss the student's behavioral health services and progress related to school performance.

- (i) A youth, young adult, or parent or caregiver of the child or youth shall be invited to participate in the quarterly meeting.
  - (ii) Other professionals as requested by a youth, young adult, or parent or caregiver of the child or youth shall be invited to participate in the quarterly meeting.
- (3) An IBHS agency shall document the outcome of the quarterly meeting and include all of the following:
- (i) Attendance.
  - (ii) Date of meeting.
  - (iii) Summary of the discussion.
  - (iv) Recommendations for any change in group service participation if discussed.
  - (v) Reason a meeting was not convened as required.
- (4) An IBHS agency providing group services shall keep the child's, youth's or young adult's records in accordance with § 5240.41 (relating to individual records).
- (5) An ITP for group services provided in school settings shall be developed in accordance with § 5240.106 (relating to individual treatment plan) and include all of the following:
- (i) Continuity of services when school is not in session.
  - (ii) Interventions that specifically address the child's, youth's or young adult's functioning in school.
  - (iii) Input from the teachers and guidance counselor directly involved with the child, youth or young adult receiving group services.
- (6) An IBHS agency that provides group services and ABA services and provides the services in school settings shall comply with §§ 5240.81—5240.87 (relating to applied behavioral analysis).
- (7) An IBHS agency that provides group services and EBT and provides the services in school settings shall comply with §§ 5240.91—5240.93 (relating to EBT initiation requirements; assessment and individual treatment plan; and EBT requirements).]

## **EVIDENCE-BASED THERAPY**

**§ 5240.101. EBT initiation requirements.**

(a) An IBHS agency shall use individual services, ABA services or group services to provide EBT to a child, youth or young adult in accordance with a written order under § 1155.35(a)(1) (relating to payment conditions for EBT delivered through individual services, ABA services and group services).

(b) Prior to the initiation of EBT, the IBHS agency shall obtain written consent to receive the EBT identified in the written order from the youth, young adult or parent or legal guardian of a child or youth.

**§ 5240.102. Assessment and individual treatment plan.**

(a) A face-to-face assessment shall be completed by staff with the qualifications required by the EBT for a child, youth or young adult within 15 days of the initiation of the service in accordance with § 5240.21(b)—(d) and (f), § 5240.85(b)—(d) and (f), or § 5240.95(a) (relating to assessment) and prior to completing the ITP.

(b) The assessment shall be reviewed and updated in accordance with § 5240.21(e) and (f), § 5240.85(e) and (f) or § 5240.95(b).

(c) A written ITP shall be completed, reviewed and updated in accordance with § 5240.22, § 5240.86 or § 5240.96 (relating to individual treatment plan).

**§ 5240.103. Requirements for EBT delivered through individual services, ABA services or group services.**

(a) An IBHS agency or the individual providing the EBT shall have a certification or licensure from the National certification organization or entity that developed or owns the EBT.

(b) An IBHS agency shall ensure that EBT is provided by staff that meet the qualifications and receive supervision as set forth in the EBT.

(c) An IBHS agency that is using an EBT shall have written policies and procedures to measure the following:

(1) Adherence to the implementation of the specific EBT.

(2) Outcomes of the EBT that incorporate review standards associated with the EBT.

(d) An IBHS agency using an EBT shall continuously monitor the fidelity to the EBT.

(e) An IBHS agency shall ensure that procedures related to and decisions about continuing services and discharge are made in accordance with the specific EBT.



(f) An IBHS agency that does not meet the standards of the EBT it provides shall:

(1) Have a corrective action plan that is approved by the National certification organization or the Department.

(2) Track the corrective action plan to ensure that the plan has been implemented.

(3) Complete the corrective action plan to meet the standards of the EBT within the time frame identified in the corrective action plan.

## **WAIVERS**

### **§ 5240.111. Waivers.**

(a) An IBHS agency may submit a written request to the Department for a waiver of a specific requirement in this chapter.

(b) The Department may grant a waiver unconditionally or subject to conditions that shall be met. The Department may revoke a waiver if conditions required by the waiver are not met.

(c) A waiver request will be granted only in exceptional circumstances and if [all of] the following are met:

(1) The waiver does not jeopardize the health and safety of the children, youth or young adults served by the IBHS agency.

(2) The waiver will not adversely affect the quality of services provided by the IBHS agency.

(3) The intent of the requirement to be waived will still be met.

(4) Children, youth or young adults will benefit from the waiver of the requirement.

(5) The waiver does not violate [any] a Federal or State statute or [other] regulation.