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## Annex A

### TITLE 55. HUMAN SERVICES

#### PART I. DEPARTMENT OF HUMAN SERVICES

#### Subpart E. HOME AND COMMUNITY-BASED SERVICES

#### CHAPTER 51. (Reserved)

§§ 51.1—51.4. (Reserved).

§§ 51.11—51.17. (Reserved).

§ 51.17a. (Reserved).

§§ 51.18—51.34. (Reserved).

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§§ 51.81—51.103. (Reserved).

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§§ 51.121—51.128. (Reserved).

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§ 51.141. (Reserved).

**§§ 51.151—51.157. (Reserved).****PART IV. ADULT SERVICES MANUAL****Subpart D. NONRESIDENTIAL AGENCIES/FACILITIES/SERVICES****CHAPTER 2380. ADULT TRAINING FACILITIES****GENERAL PROVISIONS****§ 2380.3. Definitions.**

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

*Adult*—A person 18 years of age or older.

*Adult training facility or facility*—A building or portion of a building in which services are provided to four or more individuals, who are 59 years of age or younger and who do not have a dementia-related disease as a primary diagnosis, for part of a 24-hour day, excluding care provided by relatives. Services include the provision of functional activities, assistance in meeting personal needs and assistance in performing basic daily activities.

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

*Direct service worker*—A person whose primary job function is to provide services to an individual who attends the facility.

*Fire safety expert*—A local fire department, fire protection engineer, State certified fire protection instructor, college instructor in fire science, county or State fire school, volunteer fire person trained by a county or State fire school or an insurance company loss control representative.

*Health care practitioner*—A person who is authorized to prescribe medications under a license, registration or certification by the Department of State.

*Individual*—An adult with disabilities who receives care in an adult training facility and who has developmental needs that require assistance to meet personal needs and to perform basic daily activities. Examples of adults with disabilities include adults who exhibit one or more of the following:

(i) A physical disability such as blindness, visual impairment, deafness, hearing impairment, speech or language impairment, or a physical handicap.

(ii) A mental illness.

(iii) A neurological disability such as cerebral palsy, autism or epilepsy.

(iv) An intellectual disability.

(v) A traumatic brain injury.

*Individual plan*—A coordinated and integrated description of activities and services for an individual.

*Restraint*—A physical, chemical or mechanical intervention used to control acute, episodic behavior that restricts the movement or function of the individual or a portion of the individual's body, including an intervention approved as part of the individual plan or used on an emergency basis.

*Services*—Actions or assistance provided to the individual to support the achievement of an outcome.

*Volunteer*—A person who is an organized and scheduled component of the service system and who does not receive compensation, but who provides a service through the facility that recruits, plans and organizes duties and assignments.

## GENERAL REQUIREMENTS

### § 2380.17. Incident report and investigation.

(a) The facility shall report the following incidents, alleged incidents and suspected incidents through the Department's information management system or on a form specified by the Department within 24 hours of discovery by a staff person:

- (1) Death.
- (2) A physical act by an individual in an attempt to complete suicide.
- (3) Inpatient admission to a hospital.
- (4) Abuse, including abuse to an individual by another individual.
- (5) Neglect.
- (6) Exploitation.

(7) An individual who is missing for more than 24 hours or who could be in jeopardy if missing for any period of time.

- (8) Law enforcement activity that occurs during the hours of facility operation.
- (9) Injury requiring treatment beyond first aid.

(10) Fire requiring the services of the fire department. This provision does not include false alarms.

- (11) Emergency closure.
- (12) Theft or misuse of individual funds.
- (13) A violation of individual rights.

(b) The facility shall report the following incidents, alleged incidents and suspected incidents through the Department's information management system or on a form specified by the Department within 72 hours of discovery by a staff person:

- (1) Use of a restraint.

(2) A medication error as specified in § 2380.127 (relating to medication errors), if the medication was ordered by a health care practitioner.

(c) The individual and persons designated by the individual shall be notified within 24 hours of discovery of an incident relating to the individual.

(d) The facility shall keep documentation of the notification in subsection (c).

(e) The incident report, or a summary of the incident, the findings and the actions taken, redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the report, shall be available to the individual and persons designated by the individual, upon request.

(f) The facility shall take immediate action to protect the health, safety and well-being of the individual following the initial knowledge or notice of an incident, alleged incident or suspected incident.

(g) The facility shall initiate an investigation of an incident, alleged incident or suspected incident within 24 hours of discovery by a staff person.

(h) A Department-certified incident investigator shall conduct the investigation of the following incidents:

(1) Death that occurs during the provision of service.

(2) Inpatient admission to a hospital as a result of an accidental or unexplained injury or an injury caused by a staff person, another individual or during the use of a restraint.

(3) Abuse, including abuse to an individual by another individual.

(4) Neglect.

(5) Exploitation.

(6) Injury requiring treatment beyond first aid as a result of an accidental or unexplained injury or an injury caused by a staff person, another individual or during the use of a restraint.

(7) Theft or misuse of individual funds.

(8) A violation of individual rights.

(i) The facility shall finalize the incident report through the Department's information management system or on a form specified by the Department within 30 days of discovery of the incident by a staff person unless the facility notifies the Department in writing that an extension is necessary and the reason for the extension.

(j) The facility shall provide the following information to the Department as part of the final incident report:

(1) Additional detail about the incident.

(2) The results of the incident investigation.

(3) Action taken to protect the health, safety and well-being of the individual.

(4) A description of the corrective action taken in response to an incident and to prevent recurrence of the incident.

(5) The person responsible for implementing the corrective action.

(6) The date the corrective action was implemented or is to be implemented.

### **§ 2380.18. Incident procedures to protect the individual.**

(a) In investigating an incident, the facility shall review and consider the following needs of the affected individual:

(1) Potential risks.

(2) Health care information.

(3) Medication history and current medication.

(4) Behavioral health history.

(5) Incident history.

(6) Social needs.

(7) Environmental needs.

(8) Personal safety.

(b) The facility shall monitor an individual's risk for recurring incidents and implement corrective action, as appropriate.

(c) The facility shall work cooperatively with the individual plan team to revise the individual plan if indicated by the incident.

### **§ 2380.19. Incident analysis.**

(a) The facility shall complete the following for each confirmed incident:

(1) Analysis to determine the cause of the incident.

(2) Corrective action, if indicated.

(3) A strategy to address the potential risks to the individual.

(b) The facility shall review and analyze incidents and conduct and document a trend analysis at least every 3 months.

(c) The facility shall identify and implement preventive measures to reduce:

(1) The number of incidents.

(2) The severity of the risks associated with the incident.

(3) The likelihood of an incident recurring.

(d) The facility shall educate staff persons and the individual based on the circumstances of the incident.

(e) The facility shall monitor incident data and take actions to mitigate and manage risks.

### **§ 2380.21. Individual rights.**

(a) An individual may not be deprived of rights as provided under subsections (b)—(q).

(b) The facility shall educate, assist and provide the accommodation necessary for the individual to understand the individual's rights.

(c) An individual may not be reprimanded, punished or retaliated against for exercising the individual's rights.

(d) A court's written order that restricts an individual's rights shall be followed.

(e) A court-appointed legal guardian may exercise rights and make decisions on behalf of an individual in accordance with the conditions of guardianship as specified in the court order.

(f) An individual who has a court-appointed legal guardian, or who has a court order restricting the individual's rights, shall be involved in decision-making in accordance with the court order.

(g) An individual has the right to designate persons to assist in decision-making and exercising rights on behalf of the individual.

(h) An individual may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age.

(i) An individual has the right to civil and legal rights afforded by law, including the right to vote, speak freely, practice the religion of the individual's choice and practice no religion.

(j) An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.

(k) An individual shall be treated with dignity and respect.

(l) An individual has the right to make choices and accept risks.

(m) An individual has the right to refuse to participate in activities and services.

(n) An individual has the right to privacy of person and possessions.

(o) An individual has the right of access to and security of the individual's possessions.

(p) An individual has the right to voice concerns about the services the individual receives.

(q) An individual has the right to participate in the development and implementation of the individual plan.

(r) An individual's rights shall be exercised so that another individual's rights are not violated.

(s) The facility shall assist the affected individuals to negotiate choices in accordance with the facility's procedures for the individuals to resolve differences and make choices.

(t) An individual's rights may only be modified in accordance with § 2380.185 (relating to content of the individual plan) to the extent necessary to mitigate a significant health and safety risk to the individual or others.

(u) The facility shall inform and explain individual rights and the process to report a rights violation to the individual, and persons designated by the individual, upon admission to the facility and annually thereafter.

(v) The facility shall keep a copy of the statement signed by the individual or the individual's court-appointed legal guardian, acknowledging receipt of the information on individual rights.

### **§ 2380.26. Applicable statutes and regulations.**

The facility shall comply with applicable Federal and State statutes and regulations and local ordinances.

## **STAFFING**

### **§ 2380.33. Program specialist.**

(a) At least 1 program specialist shall be assigned for every 30 individuals, regardless of whether they meet the definition of individual in § 2380.3 (relating to definitions).

(b) The program specialist shall be responsible for the following:

(1) Coordinating the completion of assessments.

(2) Participating in the individual plan process, development, team reviews and implementation in accordance with this chapter.

(3) Providing and supervising activities for the individuals in accordance with the individual plans.

(4) Supporting the integration of individuals in the community.

(5) Supporting individual communication and involvement with families and friends.

(c) A program specialist shall have one of the following groups of qualifications:

(1) A master's degree or above from an accredited college or university and 1 year of work experience working directly with persons with disabilities.

(2) A bachelor's degree from an accredited college or university and 2 years of work experience working directly with persons with disabilities.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years of work experience working directly with persons with disabilities.

### **§ 2380.35. Staffing.**

(a) A minimum of one direct service worker for every six individuals shall be physically present with the individuals at all times individuals are present at the facility, except while staff persons are attending meetings or training at the facility.

(b) While staff persons are attending meetings or training at the facility, a minimum of one staff person for every ten individuals shall be physically present with the individuals at all times individuals are present at the facility.

(c) A minimum of two staff persons shall be present with the individuals at all times.

(d) An individual may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the individual's assessment and is part of the individual plan, as an outcome which requires the achievement of a higher level of independence.

(e) The staff qualifications and staff ratio as specified in the individual plan shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(f) An individual may not be left unsupervised solely for the convenience of the facility or the direct service worker.

### **§ 2380.36. Emergency training.**

(a) Program specialists and direct service workers shall be trained before working with individuals in general fire safety, evacuation procedures, responsibilities during fire drills, the designated meeting place outside the facility or within the fire safe area in the event of an actual fire, smoking safety procedures if individuals or staff persons smoke at the facility, the use of fire extinguishers, smoke detectors and fire alarms, and notification of the local fire department as soon as possible after a fire is discovered.

(b) Program specialists and direct service workers shall be trained annually by a firesafety expert in the training areas specified in subsection (a).

(c) There shall be at least 1 staff person for every 18 individuals, with a minimum of 2 staff persons present at the facility at all times who have been trained by a person certified as a trainer by a hospital or other recognized health care organization, in first aid, Heimlich techniques and cardio-pulmonary resuscitation within the past year. If a staff person has formal certification from a hospital or other recognized health care organization that is valid for more than 1 year, the training is acceptable for the length of time on the certification.

### **§ 2380.37. Training records.**

(a) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending, shall be kept.

(b) The facility shall keep a training record for each person trained.

### **§ 2380.38. Orientation.**

(a) Prior to working alone with individuals, and within 30 days after hire, the following shall complete the orientation as described in subsection (b):

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons, except for persons who provide dietary, housekeeping, maintenance or ancillary services and who are employed or contracted by the building owner and the licensed facility does not own the building.

(3) Direct service workers, including full-time and part-time staff persons.



(4) Volunteers who will work alone with individuals.

(5) Paid and unpaid interns who will work alone with individuals.

(6) Consultants and contractors who are paid or contracted by the facility and who will work alone with individuals, except for consultants and contractors who provide a service for fewer than 30 days within a 12-month period and who are licensed, certified or registered by the Department of State in a health care or social service field.

(b) The orientation must encompass the following areas:

(1) The application of person-centered practices, community integration, individual choice and supporting individuals to develop and maintain relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102), the Child Protective Services Law (23 Pa.C.S. §§ 6301—6386), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) Job-related knowledge and skills.

### **§ 2380.39. Annual training.**

(a) The following shall complete 24 hours of training related to job skills and knowledge each year:

(1) Direct service workers.

(2) Direct supervisors of direct service workers.

(3) Positions required by this chapter.

(b) The following shall complete 12 hours of training each year:

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons, except for persons who provide dietary, housekeeping, maintenance or ancillary services and who are employed or contracted by the building owner and the licensed facility does not own the building.

(3) Consultants and contractors who are paid or contracted by the facility and who work alone with individuals, except for consultants and contractors who provide a service for fewer than 30 days within a 12-month period and who are licensed, certified or registered by the Department of State in a health care or social service field.

(4) Volunteers who work alone with individuals.

(5) Paid and unpaid interns who work alone with individuals.

(c) The annual training hours specified in subsections (a) and (b) must encompass the following areas:

(1) The application of person-centered practices, community integration, individual choice and supporting individuals to develop and maintain relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102), the Child Protective Services Law (23 Pa.C.S. §§ 6301—6386), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) The safe and appropriate use of behavior supports if the person works directly with an individual.

(6) Implementation of the individual plan if the person works directly with an individual.

## MEDICATIONS

### § 2380.121. Self-administration.

(a) The facility shall provide an individual who has a prescribed medication with assistance, as needed, for the individual's self-administration of the medication.

(b) Assistance in the self-administration of medication includes helping the individual to remember the schedule for taking the medication, offering the individual the medication at the prescribed times, opening a medication container and storing the medication in a secure place.

(c) The facility shall provide or arrange for assistive technology to assist the individual to self-administer medications.

(d) The individual plan must identify if the individual is unable to self-administer medications.

(e) To be considered able to self-administer medications, an individual shall do all of the following:

(1) Recognize and distinguish the individual's medication.

(2) Know how much medication is to be taken.

(3) Know when the medication is to be taken. Assistance may be provided by staff persons to remind the individual of the schedule and to offer the medication at the prescribed times as specified in subsection (b).

(4) Take or apply the individual's own medication with or without the use of assistive technology.

### § 2380.122. Medication administration.

(a) A facility whose staff persons are qualified to administer medications as specified in subsection (b) may provide medication administration for an individual who is unable to self-administer the individual's prescribed medication.

(b) A prescription medication that is not self-administered shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse, licensed paramedic or other health care professional who is licensed, certified or registered by the Department of State to administer medications.

(2) A person who has completed the medication administration course requirements as specified in § 2380.129 (relating to medication administration training) for the medication administration of the following:

(i) Oral medications.

(ii) Topical medications.

(iii) Eye, nose and ear drop medications.

(iv) Insulin injections.

(v) Epinephrine injections for insect bites or other allergies.

(vi) Medications, injections, procedures and treatments as permitted by applicable statutes and regulations.

(c) Medication administration includes the following activities, based on the needs of the individual:

(1) Identify the correct individual.

(2) Remove the medication from the original container.

(3) Prepare the medication as ordered by the prescriber.

(4) Place the medication in a medication cup or other appropriate container, or into the individual's hand, mouth or other route as ordered by the prescriber.

(5) If indicated by the prescriber's order, measure vital signs and administer medications according to the prescriber's order.

(6) Injection of insulin and injection of epinephrine in accordance with this chapter.

### **§ 2380.123. Storage and disposal of medications.**

(a) Prescription and nonprescription medications shall be kept in their original labeled containers. Prescription medications shall be labeled with a label issued by a pharmacy.

(b) A prescription medication may not be removed from its original labeled container in advance of the scheduled administration.

(c) If insulin or epinephrine is not packaged in an individual dose container, assistance with or the administration of the injection shall be provided immediately upon removal of the medication from its original labeled container.

(d) Prescription medications and syringes, with the exception of epinephrine and epinephrine auto-injectors, shall be kept in an area or container that is locked.

(e) Epinephrine and epinephrine auto-injectors shall be stored safely and kept easily accessible at all times. The epinephrine and epinephrine auto-injectors shall be easily accessible to the individual

if the epinephrine is self-administered or to the staff person who is with the individual if a staff person will administer the epinephrine.

(f) Prescription medications stored in a refrigerator shall be kept in an area or container that is locked.

(g) Prescription medications shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(h) Prescription medications that are discontinued or expired shall be destroyed in a safe manner according to applicable Federal and State statutes and regulations.

(i) This section does not apply for an individual who self-administers medication and stores the medication on the individual's person or in the individual's private property, such as a purse or backpack.

### **§ 2380.124. (Reserved).**

### **§ 2380.125. Prescription medications.**

(a) A prescription medication shall be prescribed in writing by an authorized prescriber.

(b) A prescription order shall be kept current.

(c) A prescription medication shall be administered as prescribed.

(d) A prescription medication shall be used only by the individual for whom the prescription was prescribed.

(e) Changes in medication may only be made in writing by the prescriber or, in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by a health care professional who is licensed, certified or registered by the Department of State to accept oral orders. The individual's medication record shall be updated as soon as a written notice of the change is received.

(f) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a written protocol as part of the individual plan to address the social, emotional and environmental needs of the individual related to the symptoms of the psychiatric illness.

### **§ 2380.126. Medication record.**

(a) A medication record shall be kept, including the following for each individual for whom a prescription medication is administered:

(1) Individual's name.

(2) Name of the prescriber.

(3) Drug allergies.

(4) Name of medication.

(5) Strength of medication.

(6) Dosage form.

- (7) Dose of medication.
- (8) Route of administration.
- (9) Frequency of administration.
- (10) Administration times.
- (11) Diagnosis or purpose for the medication, including pro re nata.
- (12) Date and time of medication administration.
- (13) Name and initials of the person administering the medication.
- (14) Duration of treatment, if applicable.
- (15) Special precautions, if applicable.
- (16) Side effects of the medication, if applicable.

(b) The information in subsection (a)(12) and (13) shall be recorded in the medication record at the time the medication is administered.

(c) If an individual refuses to take a prescribed medication, the refusal shall be documented on the medication record. The refusal shall be reported to the prescriber as directed by the prescriber or if there is harm to the individual.

(d) The directions of the prescriber shall be followed.

### **§ 2380.127. Medication errors.**

(a) Medication errors include the following:

- (1) Failure to administer a medication.
- (2) Administration of the wrong medication.
- (3) Administration of the wrong dose of medication.
- (4) Failure to administer a medication at the prescribed time, which exceeds more than 1 hour before or after the prescribed time.
- (5) Administration to the wrong person.
- (6) Administration through the wrong route.
- (7) Administration while the individual is in the wrong position.
- (8) Improper preparation of the medication.

(b) Documentation of medication errors, follow-up action taken and the prescriber's response, if applicable, shall be kept in the individual's record.

(c) A medication error shall be reported as an incident as specified in § 2380.17(b) (relating to incident report and investigation).

(d) A medication error shall be reported to the prescriber under any of the following conditions:

- (1) As directed by the prescriber.
- (2) If the medication is administered to the wrong person.
- (3) If there is harm to the individual.

### **§ 2380.128. Adverse reaction.**

(a) If an individual has a suspected adverse reaction to a medication, the facility shall immediately consult a health care practitioner or seek emergency medical treatment.

(b) An adverse reaction to a medication, the health care practitioner's response to the adverse reaction and the action taken shall be documented.

### **§ 2380.129. Medication administration training.**

(a) A staff person who has successfully completed a Department-approved medication administration course, including the course renewal requirements, may administer medications, injections, procedures and treatments as specified in § 2380.122 (relating to medication administration).

(b) A staff person may administer insulin injections following successful completion of both:

- (1) The medication administration course specified in subsection (a).
- (2) A Department-approved diabetes patient education program within the past 12 months.

(c) A staff person may administer an epinephrine injection by means of an auto-injection device in response to anaphylaxis or another serious allergic reaction following successful completion of both:

- (1) The medication administration course specified in subsection (a).
- (2) Training within the past 24 months relating to the use of an auto-injection epinephrine injection device provided by a professional who is licensed, certified or registered by the Department of State in the health care field.

(d) A record of the training shall be kept, including the person trained, the date, source, name of trainer and documentation that the course was successfully completed.

## **RESTRICTIVE PROCEDURES**

### **§ 2380.152. Written policy.**

The facility shall develop and implement a written policy that defines the prohibition or use of specific types of restrictive procedures, describes the circumstances in which restrictive procedures may be used, the staff persons who may authorize the use of restrictive procedures and a mechanism to monitor and control the use of restrictive procedures.

### **§ 2380.154. Human rights team.**

(a) If a restrictive procedure is used, the facility shall use a human rights team. The facility may use a county mental health and intellectual disability program human rights team that meets the requirements of this section.

(b) The human rights team shall include a professional who has a recognized degree, certification or license relating to behavioral support, who did not develop the behavior support component of the individual plan.

(c) The human rights team shall include a majority of persons who do not provide direct services to the individual.

(d) A record of the human rights team meetings shall be kept.

### **§ 2380.155. Behavior support component of the individual plan.**

(a) For each individual for whom a restrictive procedure may be used, the individual plan shall include a component addressing behavior support that is reviewed and approved by the human rights team in § 2380.154 (relating to human rights team), prior to use of a restrictive procedure.

(b) The behavior support component of the individual plan shall be reviewed and revised as necessary by the human rights team, according to the time frame established by the team, not to exceed 6 months between reviews.

(c) The behavior support component of the individual plan shall include:

(1) The specific behavior to be addressed.

(2) An assessment of the behavior, including the suspected reason for the behavior.

(3) The outcome desired.

(4) A target date to achieve the outcome.

(5) Methods for facilitating positive behaviors such as changes in the individual's physical and social environment, changes in the individual's routine, improving communications, recognizing and treating physical and behavior health conditions, voluntary physical exercise, redirection, praise, modeling, conflict resolution, de-escalation and teaching skills.

(6) Types of restrictive procedures that may be used and the circumstances under which the procedures may be used.

(7) The amount of time the restrictive procedure may be applied.

(8) The name of the staff person responsible for monitoring and documenting progress with the behavior support component of the individual plan.

(d) If a physical restraint will be used or if a restrictive procedure will be used to modify an individual's rights in § 2380.185(6) (relating to content of the individual plan) the behavior support component of the individual plan shall be developed by a professional who has a recognized degree, certification or license relating to behavioral support.

### **§ 2380.156. Staff training.**

(a) A staff person who implements or manages a behavior support component of an individual plan shall be trained in the use of the specific techniques or procedures that are used.

(b) If a physical restraint will be used, the staff person who implements or manages the behavior support component of the individual plan shall have experienced the use of the physical restraint directly on the staff person.

(c) Documentation of the training provided, including the staff persons trained, dates of training, description of training and training source, shall be kept.

## §§ 2380.157—2380.165. (Reserved).

### § 2380.166. Prohibited procedures.

The following procedures are prohibited:

(1) Seclusion, defined as involuntary confinement of an individual in a room or area from which the individual is physically prevented or verbally directed from leaving. Seclusion includes physically holding a door shut or using a foot pressure lock.

(2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli.

(3) Pressure-point techniques, defined as 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 as long as necessary to release the bite.

(4) A chemical restraint, defined as use of a drug for the specific and exclusive purpose of controlling acute or episodic aggressive behavior. A chemical restraint does not include a drug ordered by a health care practitioner or dentist for the following use or event:

(i) Treatment of the symptoms of a specific mental, emotional or behavioral condition.

(ii) Pretreatment prior to a medical or dental examination or treatment.

(iii) An ongoing program of medication.

(iv) A specific, time-limited stressful event or situation to assist the individual to control the individual's own behavior.

(5) A mechanical restraint, defined as a device that restricts the movement or function of an individual or portion of an individual's body. A mechanical restraint includes a geriatric chair, a bedrail that restricts the movement or function of the individual, handcuffs, anklets, wristlets, camisole, helmet with fasteners, muffs and mitts with fasteners, restraint vest, waist strap, head strap, restraint board, restraining sheet, chest restraint and other similar devices. A mechanical restraint does not include the use of a seat belt during movement or transportation. A mechanical restraint does not include a device prescribed by a health care practitioner for the following use or event:

(i) Post-surgical or wound care.

(ii) Balance or support to achieve functional body position, if the individual can easily remove the device or if the device is removed by a staff person immediately upon the request or indication by the individual, and if the individual plan includes periodic relief from the device to allow freedom of movement.

(iii) Protection from injury during a seizure or other medical condition, if the individual can easily remove the device or if the device is removed by a staff person immediately upon the request



or indication by the individual, and if the individual plan includes periodic relief of the device to allow freedom of movement.

### **§ 2380.167. Physical restraint.**

(a) A physical restraint, defined as a manual method that restricts, immobilizes or reduces an individual's ability to move the individual's arms, legs, head or other body parts freely, may only be used in the case of an emergency to prevent an individual from immediate physical harm to the individual or others.

(b) Verbal redirection, physical prompts, escorting and guiding an individual are permitted.

(c) A prone position physical restraint is prohibited.

(d) A physical restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints or allows for a free fall to the floor is prohibited.

(e) A physical restraint may not be used for more than 30 cumulative minutes within a 2-hour period.

### **§ 2380.168. Emergency use of a physical restraint.**

If a physical restraint is used on an unanticipated, emergency basis, §§ 2380.154 and 2380.155 (relating to human rights team; and behavior support component of the individual plan) do not apply until after the restraint is used for the same individual twice in a 6-month period.

### **§ 2380.169. Access to or the use of an individual's personal property.**

(a) Access to or the use of an individual's personal funds or property may not be used as a reward or punishment.

(b) An individual's personal funds or property may not be used as payment for damages unless the individual consents to make restitution for the damages. The following consent provisions apply unless there is a court-ordered restitution:

(1) A separate written consent is required for each incidence of restitution.

(2) Consent shall be obtained in the presence of the individual or a person designated by the individual.

(3) The facility may not coerce the individual to provide consent.

## **RECORDS**

### **§ 2380.173. Content of records.**

Each individual's record must include the following information:

(1) Personal information including:

(i) The name, sex, admission date, birthdate and Social Security number.

(ii) The race, height, weight, color of hair, color of eyes and identifying marks.

(iii) The language or means of communication spoken or understood by the individual and the primary language used in the individual's natural home, if other than English.

(iv) Religious affiliation.

(v) A current, dated photograph.

(2) Incident reports related to the individual.

(3) Physical examinations.

(4) Assessments as required under § 2380.181 (relating to assessment).

(5) Individual plan documents as required by this chapter.

(6) Copies of psychological evaluations, if applicable.

## **PROGRAM**

### **§ 2380.181. Assessment.**

\* \* \* \* \*

(b) If the program specialist is making a recommendation to revise a service or outcome in the individual plan, the individual shall have an assessment completed as required under this section.

\* \* \* \* \*

(f) The program specialist shall provide the assessment to the individual plan team members at least 30 calendar days prior to the individual plan meeting.

### **§ 2380.182. Development, annual update and revision of the individual plan.**

(a) The program specialist shall coordinate the development of the individual plan, including revisions, with the individual and the individual plan team.

(b) The initial individual plan shall be developed based on the individual assessment within 90 days of the individual's date of admission to the facility.

(c) The individual plan shall be initially developed, revised annually and revised when an individual's needs change based upon a current assessment.

(d) The individual and persons designated by the individual shall be involved and supported in the initial development and revisions of the individual plan.

### **§ 2380.183. Individual plan team.**

(a) The individual plan shall be developed by an interdisciplinary team, including the following:

(1) The individual.

(2) Persons designated by the individual.

(3) The individual's direct service workers.

(4) The program specialist.

(5) The program specialist for the individual's residential program, if applicable.

(6) Other specialists such as health care, behavior management, speech, occupational and physical therapy as appropriate for the individual's needs.

(b) At least three members of the individual plan team, in addition to the individual and persons designated by the individual, shall be present at a meeting at which the individual plan is developed or revised.

(c) The list of persons who participated in the individual plan meeting shall be kept.

### **§ 2380.184. Individual plan process.**

The individual plan process shall:

(1) Provide information and support to ensure that the individual directs the individual plan process to the extent possible.

(2) Enable the individual to make choices and decisions.

(3) Reflect what is important to the individual to ensure that services are delivered in a manner reflecting individual preferences and ensuring the individual's health, safety and well-being.

(4) Occur timely at intervals, times and locations of choice and convenience to the individual and to persons designated by the individual.

(5) Be communicated in clear and understandable language.

(6) Reflect cultural considerations of the individual.

(7) Include guidelines for solving disagreements among the individual plan team members.

(8) Include a method for the individual to request updates to the individual plan.

### **§ 2380.185. Content of the individual plan.**

The individual plan, including revisions, must include the following:

(1) The individual's strengths, functional abilities and service needs.

(2) The individual's preferences related to relationships, communication, community participation, employment, health care, wellness and education.

(3) The individual's desired outcomes.

(4) Services to assist the individual to achieve desired outcomes.

(5) Risks to the individual's health, safety or well-being, behaviors likely to result in immediate physical harm to the individual or others and risk mitigation strategies, if applicable.

(6) Modification of individual rights as necessary to mitigate significant health and safety risks to the individual or others, if applicable.

## § 2380.186. Implementation of the individual plan.

The facility shall implement the individual plan, including revisions.

## § 2380.187. (Reserved).

## § 2380.188. Facility services.

(a) The facility shall provide services including assistance, training and support for the acquisition, maintenance or improvement of functional skills, personal needs, communication and personal adjustment.

(b) The facility shall provide opportunities and support to the individual for participation in community life, including work opportunities.

(c) The facility shall provide services to the individual as specified in the individual plan.

(d) The facility shall provide services that are age and functionally appropriate to the individual.

# CHAPTER 2390. VOCATIONAL FACILITIES

## GENERAL PROVISIONS

### § 2390.5. Definitions.

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

*Abusive act*—An act or omission of an act that willfully deprives a client of rights or which may cause or causes actual physical injury or emotional harm to a client.

*Certificate of compliance*—A document issued to a legal entity permitting it to operate a vocational facility at a given location, for a specific period of time, according to appropriate regulations of the Commonwealth.

*Chief executive officer*—The staff person responsible for the general management of the facility. Other terms such as "program director" or "administrator" may be used as long as the qualifications specified in § 2390.32 (relating to chief executive officer) are met.

*Client*—A disabled adult receiving services in a vocational facility.

*Competitive employment*—A job in a regular work setting with an employee-employer relationship, in which a disabled adult is hired to do a job that other nondisabled employees also do.

*Criminal abuse*—Crimes against the person such as assault and crimes against the property of the client such as theft or embezzlement.

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

*Direct service worker*—A person whose primary job function is to provide services to a client who attends the facility.

*Disabled adult*—

(i) A person who because of a disability requires special help or special services on a regular basis to function vocationally.

(ii) The term includes persons who exhibit any of the following characteristics:

(a) A physical disability, such as visual impairment, hearing impairment, speech or language impairment or other physical handicap.

(b) Social or emotional maladjustment.

(c) A neurologically based condition such as cerebral palsy, autism or epilepsy.

(d) An intellectual disability.

*Handicapped employment*—A vocational program in which the individual client does not require rehabilitation, habilitation or ongoing training to work at the facility.

*Health care practitioner*—A person who is authorized to prescribe medications under a license, registration or certification by the Department of State.

*Individual plan*—A coordinated and integrated description of activities and services for a client.

*Restraint*—A physical, chemical or mechanical intervention used to control acute, episodic behavior that restricts the movement or function of the client or a portion of the client's body, including an intervention approved as part of the individual plan or used on an emergency basis.

\* \* \* \* \*

*Vocational facility (facility)*—A premise in which rehabilitative, habilitative or handicapped employment or employment training is provided to one or more disabled clients for part of a 24-hour day.

*Volunteer*—A person who is an organized and scheduled component of the service system and who does not receive compensation, but who provides a service through the facility that recruits, plans and organizes duties and assignments.

*Work activities center*—A program focusing on working and behavioral/therapeutic techniques to enable clients to attain sufficient vocational, personal, social and independent living skills to progress to higher level vocational programs.

\* \* \* \* \*

## GENERAL REQUIREMENTS

### § 2390.18. Incident report and investigation.

(a) The facility shall report the following incidents, alleged incidents and suspected incidents through the Department's information management system or on a form specified by the Department within 24 hours of discovery by a staff person:

(1) Death.

(2) A physical act by a client in an attempt to complete suicide.

(3) Inpatient admission to a hospital.

- (4) Abuse, including abuse to a client by another client.
  - (5) Neglect.
  - (6) Exploitation.
  - (7) A client who is missing for more than 24 hours or who could be in jeopardy if missing for any period of time.
  - (8) Law enforcement activity that occurs during the hours of facility operation.
  - (9) Injury requiring treatment beyond first aid.
  - (10) Fire requiring the services of the fire department. This provision does not include false alarms.
  - (11) Emergency closure.
  - (12) Theft or misuse of client funds.
  - (13) A violation of client rights.
- (b) The facility shall report the following incidents, alleged incidents and suspected incidents through the Department's information management system or on a form specified by the Department within 72 hours of discovery by a staff person:
- (1) Use of a restraint.
  - (2) A medication error as specified in § 2390.196 (relating to medication errors), if the medication was ordered by a health care practitioner.
- (c) The client and persons designated by the client shall be notified within 24 hours of discovery of an incident relating to the client.
- (d) The facility shall keep documentation of the notification in subsection (c).
- (e) The incident report, or a summary of the incident, the findings and the actions taken, redacted to exclude information about another client and the reporter, unless the reporter is the client who receives the report, shall be available to the client and persons designated by the client, upon request.
- (f) The facility shall take immediate action to protect the health, safety and well-being of the client following the initial knowledge or notice of an incident, alleged incident or suspected incident.
- (g) The facility shall initiate an investigation of an incident, alleged incident or suspected incident within 24 hours of discovery by a staff person.
- (h) A Department-certified incident investigator shall conduct the investigation of the following incidents:
- (1) Death that occurs during the provision of service.
  - (2) Inpatient admission to a hospital as a result of an accidental or unexplained injury or an injury caused by a staff person, another client or during the use of a restraint.

- (3) Abuse, including abuse to a client by another client.
- (4) Neglect.
- (5) Exploitation.
- (6) Injury requiring treatment beyond first aid as a result of an accidental or unexplained injury or an injury caused by a staff person, another client or during the use of a restraint.
- (7) Theft or misuse of client funds.
- (8) A violation of client rights.
  - (i) The facility shall finalize the incident report through the Department's information management system or on a form specified by the Department within 30 days of discovery of the incident by a staff person unless the facility notifies the Department in writing that an extension is necessary and the reason for the extension.
  - (j) The facility shall provide the following information to the Department as part of the final incident report:
    - (1) Additional detail about the incident.
    - (2) The results of the incident investigation.
    - (3) Action taken to protect the health, safety and well-being of the client.
    - (4) A description of the corrective action taken in response to an incident and to prevent recurrence of the incident.
    - (5) The person responsible for implementing the corrective action.
    - (6) The date the corrective action was implemented or is to be implemented.

### **§ 2390.19. Incident procedures to protect the client.**

- (a) In investigating an incident, the facility shall review and consider the following needs of the affected client:
  - (1) Potential risks.
  - (2) Health care information.
  - (3) Medication history and current medication.
  - (4) Behavioral health history.
  - (5) Incident history.
  - (6) Social needs.
  - (7) Environmental needs.
  - (8) Personal safety.

(b) The facility shall monitor a client's risk for recurring incidents and implement corrective action, as appropriate.

(c) The facility shall work cooperatively with the individual plan team to revise the individual plan if indicated by the incident.

(d) The facility shall complete the following for each confirmed incident:

(1) Analysis to determine the cause of the incident.

(2) Corrective action if indicated.

(3) A strategy to address the potential risks to the client.

(e) The facility shall review and analyze incidents and conduct and document a trend analysis at least every 3 months.

(f) The facility shall identify and implement preventive measures to reduce:

(1) The number of incidents.

(2) The severity of the risks associated with the incident.

(3) The likelihood of an incident recurring.

(g) The facility shall educate staff persons and the client based on the circumstances of the incident.

(h) The facility shall monitor incident data and take actions to mitigate and manage risks.

### **§ 2390.21. Client rights.**

(a) A client may not be deprived of rights as provided under subsections (b)—(q).

(b) The facility shall educate, assist and provide the accommodation necessary for the client to understand the client's rights.

(c) A client may not be reprimanded, punished or retaliated against for exercising the client's rights.

(d) A court's written order that restricts a client's rights shall be followed.

(e) A court-appointed legal guardian may exercise rights and make decisions on behalf of a client in accordance with the conditions of guardianship as specified in the court order.

(f) A client who has a court-appointed legal guardian, or who has a court order restricting the client's rights, shall be involved in decision-making in accordance with the court order.

(g) A client has the right to designate persons to assist in decision-making and exercising rights on behalf of the client.

(h) A client may not be discriminated against because of race, color, creed, disability, religious affiliation, ancestry, gender, gender identity, sexual orientation, national origin or age.

(i) A client has the right to civil and legal rights afforded by law, including the right to vote, speak freely, practice the religion of the client's choice and practice no religion.



- (j) A client may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.
- (k) A client shall be treated with dignity and respect.
- (l) A client has the right to make choices and accept risks.
- (m) A client has the right to refuse to participate in activities and services.
- (n) A client has the right to privacy of person and possessions.
- (o) A client has the right of access to and security of the client's possessions.
- (p) A client has the right to voice concerns about the services the client receives.
- (q) A client has the right to participate in the development and implementation of the individual plan.
- (r) A client's rights shall be exercised so that another client's rights are not violated.
- (s) The facility shall assist the affected clients to negotiate choices in accordance with the facility's procedures for the clients to resolve differences and make choices.
- (t) A client's rights may only be modified in accordance with § 2390.155 (relating to content of the individual plan) to the extent necessary to mitigate a significant health and safety risk to the client or others.
- (u) The facility shall inform and explain client rights and the process to report a rights violation to the client, and persons designated by the client, upon admission to the facility and annually thereafter.
- (v) The facility shall keep a copy of the statement signed by the client, or the client's court-appointed legal guardian, acknowledging receipt of the information on client rights.

#### **§ 2390.24. Applicable statutes and regulations.**

The facility shall comply with applicable Federal and State statutes and regulations and local ordinances.

### **STAFFING**

#### **§ 2390.33. Program specialist.**

- (a) A minimum of 1 program specialist for every 45 clients shall be available when clients are present at the facility.
- (b) The program specialist shall be responsible for the following:
  - (1) Coordinating the completion of assessments.
  - (2) Participating in the individual plan process, development, team reviews and implementation in accordance with this chapter.
  - (3) Providing and supervising activities for the clients in accordance with the individual plans.

(4) Supporting the integration of clients in the community.

(5) Supporting client communication and involvement with families and friends.

(c) A program specialist shall meet one of the following groups of qualifications:

(1) Possess a master's degree or above from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupational Therapy, Therapeutic Recreation or other human services field.

(2) Possess a bachelor's degree from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupational Therapy, Therapeutic Recreation or other human services field; and 1 year experience working directly with disabled persons.

(3) Possess an associate's degree or completion of a 2-year program from an accredited college or university in Special Education, Psychology, Public Health, Rehabilitation, Social Work, Speech Pathology, Audiology, Occupational Therapy, Therapeutic Recreation or other human services field; and 3 years experience working directly with disabled persons.

(4) Possess a license or certification by the State Board of Nurse Examiners, the State Board of Physical Therapists Examiners, or the Committee on Rehabilitation Counselor Certification or be a licensed psychologist or registered occupational therapist; and 1 year experience working directly with disabled persons.

### **§ 2390.39. Staffing.**

(a) A minimum of two staff shall be present at the facility when ten or more clients are present at the facility.

(b) A minimum of one staff shall be present at the facility when fewer than ten clients are present at the facility.

(c) If 20 or more clients are present at the facility, there shall be at least 1 staff present at the facility who meets the qualifications of program specialist.

(d) A client may be left unsupervised for specified periods of time if the absence of direct supervision is consistent with the client's assessment and is part of the client's individual plan, as an outcome which requires the achievement of a higher level of independence.

(e) The staff qualifications and staff ratio as specified in the individual plan shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

(f) A client may not be left unsupervised solely for the convenience of the facility or the direct service worker.

### **§ 2390.40. Training records.**

(a) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and persons attending, shall be kept.

(b) The facility shall keep a training record for each person trained.

### **§ 2390.48. Orientation.**

(a) Prior to working alone with clients, and within 30 days after hire, the following shall complete the orientation as described in subsection (b):

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons, except for persons who provide dietary, housekeeping, maintenance or ancillary services and who are employed or contracted by the building owner and the licensed facility does not own the building.

(3) Direct service workers, including full-time and part-time staff persons.

(4) Volunteers who will work alone with clients.

(5) Paid and unpaid interns who will work alone with clients.

(6) Consultants and contractors who are paid or contracted by the facility and who will work alone with clients, except for consultants and contractors who provide a service for fewer than 30 days within a 12-month period and who are licensed, certified or registered by the Department of State in a health care or social service field.

(b) The orientation must encompass the following areas:

(1) The application of person-centered practices, community integration, client choice and supporting clients to develop and maintain relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102), the Child Protective Services Law (23 Pa.C.S. §§ 6301—6386), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Client rights.

(4) Recognizing and reporting incidents.

(5) Job-related knowledge and skills.

## **§ 2390.49. Annual training.**

(a) The following shall complete 24 hours of training related to job skills and knowledge each year:

(1) Direct supervisors of floor supervisors.

(2) Positions required by this chapter.

(b) The following shall complete 12 hours of training each year:

(1) Management, program, administrative and fiscal staff persons.

(2) Dietary, housekeeping, maintenance and ancillary staff persons, except for persons who provide dietary, housekeeping, maintenance or ancillary services and who are employed or contracted by the building owner and the licensed facility does not own the building.

(3) Consultants and contractors who are paid or contracted by the facility and who work alone with clients, except for consultants and contractors who provide a service for fewer than 30 days

within a 12-month period and who are licensed, certified or registered by the Department of State in a health care or social service field.

(4) Volunteers who work alone with clients.

(5) Paid and unpaid interns who work alone with clients.

(c) The annual training hours specified in subsections (a) and (b) must encompass the following areas:

(1) The application of person-centered practices, including community integration, client choice and supporting clients to develop and maintain relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with the Older Adults Protective Services Act (35 P.S. §§ 10225.101—10225.5102), the Child Protective Services Law (23 Pa.C.S. §§ 6301—6386), the Adult Protective Services Act (35 P.S. §§ 10210.101—10210.704) and applicable protective services regulations.

(3) Client rights.

(4) Recognizing and reporting incidents.

(5) The safe and appropriate use of behavior supports if the person works directly with a client.

(6) Implementation of the individual plan if the person works directly with a client.

## CLIENT RECORDS

### § 2390.124. Content of records.

Each client's record must include the following information:

(1) The name, sex, admission date, birthdate and place, Social Security number and dates of entry, transfer and discharge.

(2) The name, address and telephone number of parents, legal guardian and a designated person to be contacted in case of an emergency.

(3) The name and telephone number of a physician or source of health care.

(4) Written consent from the client, parent or guardian for emergency medical treatment.

(5) Physical examinations.

(6) Assessments as required under § 2390.151 (relating to assessment).

(7) A copy of the vocational evaluations, if applicable.

(8) Individual plan documents as required by this chapter.

(9) Incident reports related to the client.

(10) Copies of psychological evaluations, if applicable.

(11) Vocational evaluations as required under § 2390.159 (relating to vocational evaluation).

## PROGRAM

### § 2390.151. Assessment.

\* \* \* \* \*

(b) If the program specialist is making a recommendation to revise a service or outcome in the individual plan, the client shall have an assessment completed as required under this section.

\* \* \* \* \*

(f) The program specialist shall provide the assessment to the individual plan team members at least 30 calendar days prior to the individual plan meeting.

### § 2390.152. Development, annual update and revision of the individual plan.

(a) The program specialist shall coordinate the development of the individual plan, including revisions, with the client and the individual plan team.

(b) The initial individual plan shall be developed based on the client assessment within 90 days of the client's date of admission to the facility.

(c) The individual plan shall be initially developed, revised annually and revised when a client's needs change based upon a current assessment.

(d) The client and persons designated by the client shall be involved and supported in the initial development and revisions of the individual plan.

### § 2390.153. Individual plan team.

(a) The individual plan shall be developed by an interdisciplinary team, including the following:

(1) The client.

(2) Persons designated by the client.

(3) The client's direct service workers.

(4) The program specialist.

(5) The program specialist for the client's residential program, if applicable.

(6) Other specialists such as health care, behavior management, speech, occupational and physical therapy as appropriate for the client's needs.

(b) At least three members of the individual plan team, in addition to the client and persons designated by the client, shall be present at a meeting at which the individual plan is developed or revised.

(c) The list of persons who participated in the individual plan meeting shall be kept.

### § 2390.154. Individual plan process.

The individual plan process shall:

- (1) Provide information and support to ensure that the client directs the individual plan process to the extent possible.
- (2) Enable the client to make choices and decisions.
- (3) Reflect what is important to the client to ensure that services are delivered in a manner reflecting individual preferences and ensuring the client's health, safety and well-being.
- (4) Occur timely at intervals, times and locations of choice and convenience to the client and to persons designated by the client.
- (5) Be communicated in clear and understandable language.
- (6) Reflect cultural considerations of the client.
- (7) Include guidelines for solving disagreements among the individual plan team members.
- (8) Include a method for the client to request updates to the individual plan.

### **§ 2390.155. Content of the individual plan.**

The individual plan, including revisions, must include the following:

- (1) The client's strengths, functional abilities and service needs.
- (2) The client's preferences related to relationships, communication, community participation, employment, health care, wellness and education.
- (3) The client's desired outcomes.
- (4) Services to assist the client to achieve desired outcomes.
- (5) Risks to the client's health, safety or well-being, behaviors likely to result in immediate physical harm to the client or others and risk mitigation strategies, if applicable.
- (6) Modification of client rights as necessary to mitigate significant health and safety risks to the client or others, if applicable.

### **§ 2390.156. Implementation of the individual plan.**

The facility shall implement the individual plan, including revisions.

### **§ 2390.157. (Reserved).**

### **§ 2390.158. Facility services.**

- (a) The facility shall provide services including work experience and other developmentally oriented vocational training designed to develop the skills necessary for promotion into a higher level of vocational programming or competitive community-integrated employment.
- (b) The facility shall provide opportunities and support to the client for participation in community life, including competitive community-integrated employment.
- (c) The facility shall provide services to the client as specified in the client's individual plan.

(d) The facility shall provide services that are age and functionally appropriate to the client.

## **RESTRICTIVE PROCEDURES**

### **§ 2390.171. Definition of restrictive procedures.**

A restrictive procedure is a practice that does one or more of the following:

- (1) Limits a client's movement, activity or function.
- (2) Interferes with a client's ability to acquire positive reinforcement.
- (3) Results in the loss of objects or activities that a client values.
- (4) Requires a client to engage in a behavior that the client would not engage in given freedom of choice.

### **§ 2390.172. Written policy.**

The facility shall develop and implement a written policy that defines the prohibition or use of specific types of restrictive procedures, describes the circumstances in which a restrictive procedure may be used, the staff persons who may authorize the use of a restrictive procedure and a mechanism to monitor and control the use of restrictive procedures.

### **§ 2390.173. Appropriate use of restrictive procedures.**

- (a) A restrictive procedure may not be used as retribution, for the convenience of staff persons, as a substitute for a program or in a way that interferes with the client's developmental program.
- (b) For each use of a restrictive procedure:
  - (1) Every attempt shall be made to anticipate and de-escalate the behavior using techniques less intrusive than a restrictive procedure.
  - (2) A restrictive procedure may not be used unless less restrictive techniques and resources appropriate to the behavior have been tried but have failed.

### **§ 2390.174. Human rights team.**

- (a) If a restrictive procedure is used, the facility shall use a human rights team. The facility may use a county mental health and intellectual disability program human rights team that meets the requirements of this section.
- (b) The human rights team shall include a professional who has a recognized degree, certification or license relating to behavioral support, who did not develop the behavior support component of the individual plan.
- (c) The human rights team shall include a majority of persons who do not provide direct services to the client.
- (d) A record of the human rights team meetings shall be kept.

### **§ 2390.175. Behavior support component of the individual plan.**

(a) For each client for whom a restrictive procedure may be used, the individual plan shall include a component addressing behavior support that is reviewed and approved by the human rights team in § 2390.174 (relating to human rights team), prior to use of a restrictive procedure.

(b) The behavior support component of the individual plan shall be reviewed and revised as necessary by the human rights team, according to the time frame established by the team, not to exceed 6 months between reviews.

(c) The behavior support component of the individual plan shall include:

(1) The specific behavior to be addressed.

(2) An assessment of the behavior, including the suspected reason for the behavior.

(3) The outcome desired.

(4) A target date to achieve the outcome.

(5) Methods for facilitating positive behaviors such as changes in the client's physical and social environment, changes in the client's routine, improving communications, recognizing and treating physical and behavior health conditions, voluntary physical exercise, redirection, praise, modeling, conflict resolution, de-escalation and teaching skills.

(6) Types of restrictive procedures that may be used and the circumstances under which the procedures may be used.

(7) The amount of time the restrictive procedure may be applied.

(8) The name of the staff person responsible for monitoring and documenting progress with the behavior support component of the individual plan.

(d) If a physical restraint will be used or if a restrictive procedure will be used to modify a client's rights in § 2390.155(6) (relating to content of the individual plan) the behavior support component of the individual plan shall be developed by a professional who has a recognized degree, certification or license relating to behavioral support.

### **§ 2390.176. Staff training.**

(a) A staff person who implements or manages a behavior support component of an individual plan shall be trained in the use of the specific techniques or procedures that are used.

(b) If a physical restraint will be used, the staff person who implements or manages the behavior support component of the individual plan shall have experienced the use of the physical restraint directly on the staff person.

(c) Documentation of the training provided, including the staff persons trained, dates of training, description of training and training source, shall be kept.

### **§ 2390.177. Prohibited procedures.**

The following procedures are prohibited:

(1) Seclusion, defined as involuntary confinement of a client in a room or area from which the client is physically prevented or verbally directed from leaving. Seclusion includes physically holding a door shut or using a foot pressure lock.



(2) Aversive conditioning, defined as the application of startling, painful or noxious stimuli.

(3) Pressure-point techniques, defined as 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 as long as necessary to release the bite.

(4) A chemical restraint, defined as use of a drug for the specific and exclusive purpose of controlling acute or episodic aggressive behavior. A chemical restraint does not include a drug ordered by a health care practitioner or dentist for the following use or event:

(i) Treatment of the symptoms of a specific mental, emotional or behavioral condition.

(ii) Pretreatment prior to a medical or dental examination or treatment.

(iii) An ongoing program of medication.

(iv) A specific, time-limited stressful event or situation to assist the client to control the client's own behavior.

(5) A mechanical restraint, defined as a device that restricts the movement or function of a client or portion of a client's body. A mechanical restraint includes a geriatric chair, a bedrail that restricts the movement or function of the client, handcuffs, anklets, wristlets, camisole, helmet with fasteners, muffs and mitts with fasteners, restraint vest, waist strap, head strap, restraint board, restraining sheet, chest restraint and other similar devices. A mechanical restraint does not include the use of a seat belt during movement or transportation. A mechanical restraint does not include a device prescribed by a health care practitioner for the following use or event:

(i) Post-surgical or wound care.

(ii) Balance or support to achieve functional body position, if the client can easily remove the device or if the device is removed by a staff person immediately upon the request or indication by the client, and if the individual plan includes periodic relief of the device to allow freedom of movement.

(iii) Protection from injury during a seizure or other medical condition, if the client can easily remove the device or if the device is removed by a staff person immediately upon the request or indication by the client, and if the individual plan includes periodic relief of the device to allow freedom of movement.

## § 2390.178. Physical restraint.

(a) A physical restraint, defined as a manual method that restricts, immobilizes or reduces a client's ability to move the client's arms, legs, head or other body parts freely, may only be used in the case of an emergency to prevent a client from immediate physical harm to the client or others.

(b) Verbal redirection, physical prompts, escorting and guiding a client are permitted.

(c) A prone position physical restraint is prohibited.

(d) A physical restraint that inhibits digestion or respiration, inflicts pain, causes embarrassment or humiliation, causes hyperextension of joints, applies pressure on the chest or joints or allows for a free fall to the floor is prohibited.

(e) A physical restraint may not be used for more than 30 cumulative minutes within a 2-hour period.

### **§ 2390.179. Emergency use of a physical restraint.**

If a physical restraint is used on an unanticipated, emergency basis, §§ 2390.174 and 2390.175 (relating to human rights team; and behavior support component of the individual plan) do not apply until after the restraint is used for the same client twice in a 6-month period.

### **§ 2390.180. Access to or the use of a client's personal property.**

(a) Access to or the use of a client's personal funds or property may not be used as a reward or punishment.

(b) A client's personal funds or property may not be used as payment for damages unless the client consents to make restitution for the damages. The following consent provisions apply unless there is a court-ordered restitution:

- (1) A separate written consent is required for each incidence of restitution.
- (2) Consent shall be obtained in the presence of the client or a person designated by the client.
- (3) The facility may not coerce the client to provide consent.

## **MEDICATION ADMINISTRATION**

### **§ 2390.191. Self-administration.**

(a) The facility shall provide a client who has a prescribed medication with assistance, as needed, for the client's self-administration of the medication.

(b) Assistance in the self-administration of medication includes helping the client to remember the schedule for taking the medication, offering the client the medication at the prescribed times, opening a medication container and storing the medication in a secure place.

(c) The facility shall provide or arrange for assistive technology to assist the client to self-administer medications.

(d) The individual plan must identify if the client is unable to self-administer medications.

(e) To be considered able to self-administer medications, a client shall do all of the following:

- (1) Recognize and distinguish the client's medication.
- (2) Know how much medication is to be taken.
- (3) Know when the medication is to be taken. Assistance may be provided by staff persons to remind the client of the schedule and to offer the medication at the prescribed times as specified in subsection (b).
- (4) Take or apply the client's own medication with or without the use of assistive technology.

### **§ 2390.192. Medication administration.**

(a) A facility whose staff persons are qualified to administer medications as specified in subsection (b) may provide medication administration for a client who is unable to self-administer the client's prescribed medication.

(b) A prescription medication that is not self-administered shall be administered by one of the following:

(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse, licensed paramedic or other health care professional who is licensed, certified or registered by the Department of State to administer medications.

(2) A person who has completed the medication administration course requirements as specified in § 2390.198 (relating to medication administration training) for the medication administration of the following:

(i) Oral medications.

(ii) Topical medications.

(iii) Eye, nose and ear drop medications.

(iv) Insulin injections.

(v) Epinephrine injections for insect bites or other allergies.

(vi) Medications, injections, procedures and treatments as permitted by applicable statutes and regulations.

(c) Medication administration includes the following activities, based on the needs of the client:

(1) Identify the correct client.

(2) Remove the medication from the original container.

(3) Prepare the medication as ordered by the prescriber.

(4) Place the medication in a medication cup or other appropriate container, or into the client's hand, mouth or other route as ordered by the prescriber.

(5) If indicated by the prescriber's order, measure vital signs and administer medications according to the prescriber's order.

(6) Injection of insulin and injection of epinephrine in accordance with this chapter.

### **§ 2390.193. Storage and disposal of medications.**

(a) Prescription and nonprescription medications shall be kept in their original labeled containers. Prescription medications shall be labeled with a label issued by the pharmacy.

(b) A prescription medication may not be removed from its original labeled container in advance of the scheduled administration.

(c) If insulin or epinephrine is not packaged in an individual dose container, assistance with or the administration of the injection shall be provided immediately upon removal of the medication from its original labeled container.

(d) Prescription medications and syringes, with the exception of epinephrine and epinephrine auto-injectors, shall be kept in an area or container that is locked.

(e) Epinephrine and epinephrine auto-injectors shall be stored safely and kept easily accessible at all times. The epinephrine and epinephrine auto-injectors shall be easily accessible to the client if the epinephrine is self-administered or to the staff person who is with the client if a staff person will administer the epinephrine.

(f) Prescription medications stored in a refrigerator shall be kept in an area or container that is locked.

(g) Prescription medications shall be stored in an organized manner under proper conditions of sanitation, temperature, moisture and light and in accordance with the manufacturer's instructions.

(h) Prescription medications that are discontinued or expired shall be destroyed in a safe manner according to the applicable Federal and State statutes and regulations.

(i) This section does not apply for a client who self-administers medication and stores the medication on the client's person or in the client's private property, such as a purse or backpack.

### **§ 2390.194. Prescription medications.**

(a) A prescription medication shall be prescribed in writing by an authorized prescriber.

(b) A prescription order shall be kept current.

(c) A prescription medication shall be administered as prescribed.

(d) A prescription medication shall be used only by the client for whom the prescription was prescribed.

(e) Changes in medication may only be made in writing by the prescriber or, in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by a health care professional who is licensed, certified or registered by the Department of State to accept oral orders. The client's medication record shall be updated as soon as a written notice of the change is received.

### **§ 2390.195. Medication record.**

(a) A medication record shall be kept, including the following for each client for whom a prescription medication is administered:

(1) Client's name.

(2) Name of the prescriber.

(3) Drug allergies.

(4) Name of medication.

(5) Strength of medication.

(6) Dosage form.

(7) Dose of medication.

(8) Route of administration.

- (9) Frequency of administration.
- (10) Administration times.
- (11) Diagnosis or purpose for the medication, including pro re nata.
- (12) Date and time of medication administration.
- (13) Name and initials of the person administering the medication.
- (14) Duration of treatment, if applicable.
- (15) Special precautions, if applicable.
- (16) Side effects of the medication, if applicable.

(b) The information in subsection (a)(12) and (13) shall be recorded in the medication record at the time the medication is administered.

(c) If a client refuses to take a prescribed medication, the refusal shall be documented on the medication record. The refusal shall be reported to the prescriber as directed by the prescriber or if there is harm to the client.

(d) The directions of the prescriber shall be followed.

### **§ 2390.196. Medication errors.**

(a) Medication errors include the following:

- (1) Failure to administer a medication.
- (2) Administration of the wrong medication.
- (3) Administration of the wrong dose of medication.

(4) Failure to administer a medication at the prescribed time, which exceeds more than 1 hour before or after the prescribed time.

- (5) Administration to the wrong person.
- (6) Administration through the wrong route.
- (7) Administration while the client is in the wrong position.
- (8) Improper preparation of the medication.

(b) Documentation of medication errors, follow-up action taken and the prescriber's response, if applicable, shall be kept in the client's record.

(c) A medication error shall be reported as an incident as specified in § 2390.18(b) (relating to incident report and investigation).

(d) A medication error shall be reported to the prescriber under any of the following conditions:

- (1) As directed by the prescriber.

(2) If the medication is administered to the wrong person.

(3) If there is harm to the client.

### § 2390.197. Adverse reaction.

(a) If a client has a suspected adverse reaction to a medication, the facility shall immediately consult a health care practitioner or seek emergency medical treatment.

(b) An adverse reaction to a medication, the health care practitioner's response to the adverse reaction and the action taken shall be documented.

### § 2390.198. Medication administration training.

(a) A staff person who has successfully completed a Department-approved medication administration course, including the course renewal requirements, may administer medications, injections, procedures and treatments as specified in § 2390.192 (relating to medication administration).

(b) A staff person may administer insulin injections following successful completion of both:

(1) The medication administration course specified in subsection (a).

(2) A Department-approved diabetes patient education program within the past 12 months.

(c) A staff person may administer an epinephrine injection by means of an auto-injection device in response to anaphylaxis or another serious allergic reaction following successful completion of both:

(1) The medication administration course specified in subsection (a).

(2) Training within the past 24 months relating to the use of an auto-injection epinephrine injection device provided by a health care professional who is licensed, certified or registered by the Department of State in the health care field.

(d) A record of the training shall be kept, including the person trained, the date, source, name of trainer and documentation that the course was successfully completed.

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