

SECURED PERIMETERS

Amend Section 80001 to read:

80001 DEFINITIONS

80001

The following general definitions shall apply wherever the terms are used throughout Division 6, Chapters 1, 4 through 7, and Chapter 9, except where specifically noted otherwise. Additional definitions found at the beginning of each chapter in this division shall apply only to such specific facility category.

(a) through (k) (Continued)

- (l) (1) "Lacks Hazard Awareness or Impulse Control" means that the client poses a risk of harm to himself or herself or others by wandering off or running away from the residence and requires an enhancement to supervision through the use of delayed egress devices and secured perimeters without which the consumer would require placement in a more restrictive, locked residential setting.

(~~1~~2) (Continued)

(~~2~~3) (Continued)

(~~3~~4) (Continued)

(~~4~~5) (Continued)

(m) through (r) (Continued)

- (s) (1) "Secured Perimeters" shall have the same meaning as Health and Safety Code section 1531.15(b).

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Health and Safety Code section 1531.15 provides in pertinent part:

(b) As used in this section, "secured perimeters" means fences that meet the requirements prescribed by this section.

(c) Only individuals meeting all of the following conditions may be admitted to or reside in a facility described in subdivision (a) utilizing secured perimeters:

- (1) The person shall have a developmental disability as defined in Section 4512 of the Welfare and Institutions Code.

- (2) The person shall be receiving services and case management from a regional center under the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code).
- (3) (A) The person shall be 14 years of age or older, except as specified in subparagraph (B).
 - (B) Notwithstanding subparagraph (A), a child who is at least 10 years of age and less than 14 years of age may be placed in a licensed group home described in subdivision (a) using secured perimeters only if both of the following occur:
 - (i) A comprehensive assessment is conducted and an individual program plan meeting is convened to determine the services and supports needed for the child to receive services in a less restrictive, unlocked residential setting in California, and the regional center requests assistance from the State Department of Developmental Services' statewide specialized resource service to identify options to serve the child in a less restrictive, unlocked residential setting in California.
 - (ii) The regional center requests placement of the child in a licensed group home described in subdivision (a) using secured perimeters on the basis that the placement is necessary to prevent out-of-state placement or placement in a more restrictive, locked residential setting such as a developmental center, institution for mental disease or psychiatric facility, and the State Department of Developmental Services approves the request.
- (4) The person is not a foster child under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code.
- (5) (A) An interdisciplinary team, through the individual program plan (IPP) process pursuant to Section 4646.5 of the Welfare and Institutions Code, shall have determined the person lacks hazard awareness or impulse control and, for his or her safety and security, requires the level of supervision afforded by a facility equipped with secured perimeters, and, but for this placement, the person would be at risk of admission to, or would have no option but to remain in, a more restrictive placement. The individual program planning team shall convene every 90 days after admission to determine and document the continued appropriateness of the

current placement and progress in implementing the transition plan.

(B) The clients' rights advocate for the regional center shall be notified of the proposed admission and the individual program plan meeting and may participate in the individual program plan meeting unless the consumer objects on his or her own behalf.

(j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

HANDBOOK ENDS HERE

~~(12)~~ (Continued)

~~(23)~~ (Continued)

~~(34)~~ (Continued)

~~(45)~~ (Continued)

~~(56)~~ (Continued)

~~(67)~~ (Continued)

~~(78)~~ (Continued)

(t) through (z) (Continued)

Authority cited: Sections 1502, 1522.41(j), 1524(e), 1530, ~~and~~ 1530.9 and 1531.15, Health and Safety Code.

Reference: Sections 1501, 1502, 1502(a)(8), 1502.5, 1503, 1503.5, 1505, 1507, 1508, 1509, 1511, 1520, 1522, 1524, 1524(e), 1525, 1525.5, 1526, 1527, 1530, 1530.5, 1531, 1531.1, 1531.15, 1533, 1534, 1536.1, 1537, 1538.5, 1550, 1551, 1556, 1569.699(a), 1797.196 and 11834.11, Health and Safety Code; Sections 11006.9, 17736(a) and 17736(b), Welfare and Institutions Code; 29 CFR 1910.1030; and Joint Stipulation and Order for Settlement in the matter of California Association of Mental Health Patients' Rights Advocates v. Cliff Allenby, et al., Santa Clara County Superior Court, No. 106-CV061397, issued November 14, 2008.

Amend Section 80020 to read:

80020 FIRE CLEARANCE

80020

- (a) All facilities shall secure and maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal.
 - (1) The request for fire clearance shall be made through and maintained by the licensing agency.
 - (2) Prior to the use of secured perimeters, an applicant or licensee for an Adult Residential Facility or Group Home shall meet the fire clearance approval requirements of Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56072(d) and (h).

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California Code of Regulations, Title 17, Section 56072 provides in pertinent part:

- (d) The request for fire clearance for the use of the secured perimeter shall be made through the DSS CCLD. The DSS CCLD approval shall be contingent on a fire clearance being obtained for the specific use of the secured perimeter.
- (h) The DSS CCLD approval is immediately terminated by operation of law upon any suspension or revocation of the fire clearance approval specific to the use of the secured perimeter, or upon the Department of Developmental Services' withdrawal of its approval of the secured perimeter component of the licensee's or applicant's plan of operation.

HANDBOOK ENDS HERE

- (b) (Continued)
- (c) A licensee of an Adult Residential Facility or Group Home utilizing secured perimeters shall conduct fire and earthquake drills pursuant to Health and Safety Code section 1531.15(h).

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (h) Emergency fire and earthquake drills shall be conducted on each shift in accordance with existing licensing requirements, and shall include all facility staff providing resident care and supervision on each shift.

HANDBOOK ENDS HERE

Authority cited: Sections 1530 and 1531.15, Health and Safety Code.

Reference: Sections 1501, 1520, 1528, ~~and 1531~~ and 1531.15, Health and Safety Code.

Amend Title Section 80022 to read:

80022 PLAN OF OPERATION

80022

(a) through (e) (Continued)

(f) If the licensee intends to admit and/or specialize in care for one or more clients who has a propensity for behaviors that result in harm to self or others, the facility plan of operation shall include a description of precautions that will be taken to protect that client and all other clients.

(g) Prior to the use of secured perimeters, the applicant or licensee of a Group Home or Adult Residential Facility shall provide the information required by Health and Safety Code Section 1531.15(f) and California Code of Regulations Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56070, in the plan of operation.

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Health and Safety Code section 1531.15 provides in pertinent part:

(f) The licensee shall revise its facility plan of operation. These revisions shall first be approved by the State Department of Developmental Services. The plan of operation shall not be approved by the State Department of Social Services unless the licensee provides certification that the plan was approved by the State Department of Developmental Services. The plan shall include, but not be limited to, all of the following:

(1) A description of how the facility is to be equipped with secured perimeters that are consistent with regulations adopted by the State Fire Marshal pursuant to Section 13143.6.

(2) A description of how the facility will provide training for staff.

(3) A description of how the facility will ensure the protection of the residents' personal rights consistent with Sections 4502, 4503, and 4504 of the Welfare and Institutions Code, and any applicable personal rights provided in Title 22 of the California Code of Regulations.

(4) A description of how the facility will manage residents' lack of hazard awareness and impulse control behavior, which shall emphasize positive behavioral supports and techniques that are alternatives to physical, chemical, or mechanical restraints, or seclusion.

(5) A description of the facility's emergency evacuation procedures.

- (6) A description of how the facility will comply with applicable health and safety standards.

California Code of Regulations, Title 17, Section 56070 provides in pertinent part:

- (a) In addition to the requirements of Title 22, California Code of Regulations, Section 80022, the plan of operation shall include the following information for the use of secured perimeters:
- (1) Documentation provided by the regional center of the local need for the facility to utilize a secured perimeter.
 - (2) A component describing the following:
 - (A) An explanation of how interior and exterior space is to be made available on the facility premises to permit consumers to move freely and safely.
 - (B) Staff qualifications and staff training curricula, including participation by the local regional center and the clients' rights advocate providing advocacy services pursuant to Section 4433 of the Welfare and Institutions Code.
 - (C) An explanation of how the facility licensee will ensure the protection of consumers' personal rights, including those specified in Chapter 1 of Division 4.5 of the Welfare and Institutions Code, and any applicable personal rights provided in Titles 17 and 22 of the California Code of Regulations.
 - (D) The licensee's or applicant's plan for managing consumers' lack of hazard awareness and impulse control behavior.
 - (E) Procedures to inform consumers that they have the right to leave the facility and procedures to be followed if a consumer indicates a desire to leave the facility, including the use of redirection or, if the consumer indicates a continued desire to leave following redirection, procedures for staff accompaniment and supervision, and for ensuring adequate staffing for the remaining residents.
 - (F) Procedures to be used for conducting and documenting fire and earthquake drills at least once every 3 months that include all facility staff providing the consumer care and supervision.
 - (G) The facility's emergency evacuation procedure. The procedure shall include the protocol for consumers moving through and beyond the secured perimeters when needed for their safety.

- (H) In the case of an existing facility with delayed egress devices seeking to add secured perimeters, a plan for relocating current facility consumers who have not been determined to meet the admissions and continued placement requirements for residential facilities utilizing secured perimeters as set forth in Section 56073 and Health and Safety Code Section 1531.15.

- (b) In addition to any other required training, the licensee or applicant shall provide 16 hours of training for each direct care staff, prior to staff being left alone with clients, which shall include at least the following:
 - (1) The personal rights of facility residents, including rights related to utilizing secured perimeters and delayed egress devices.
 - (2) Behavior management techniques of consumers lacking hazard awareness and impulse control.
 - (3) Emergency procedures in the event of a medical emergency or facility disaster.

HANDBOOK ENDS HERE

- (h) Prior to the use of secured perimeters, applicants or licensees of Group Homes and Adult Residential Facilities seeking to utilize secured perimeters pursuant to Health and Safety Code section 1531.15 shall submit the Department of Developmental Service's written approval and the approved component of the applicant's or licensee's plan of operation to the Department as specified in the California Code of Regulations, Title 17, Chapter 3, Subchapter 4, Article 12, Sections 56072(c).

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California Code of Regulation, Title 17, Section 56072 provides in pertinent part:

- (c) Upon receiving written approval from the Department of Developmental Services of the proposed secured perimeter component of the facility plan of operation, the licensee or applicant shall submit the written approval and the approved component of the licensee's or applicant's plan of operation to the Department of Social Services, Community Care Licensing Division (DSS CCLD) for approval or denial.

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- (i) Prior to the use of secured perimeters, the applicant or licensee of a Group Home or Adult Residential Facility shall obtain the Department's written determination of its approval or denial of the proposed secured perimeter component of the plan of operation as specified in

the California Code of Regulations, Title 17, Chapter 3, Subchapter 4, Article 12, 56072(e) and (f).

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California Code of Regulation, Title 17, Section 56072 provides in pertinent part:

- (e) The DSS CCLD shall review the licensee's or applicant's licensing history, if any, as a residential service provider licensed by the DSS CCLD and shall be authorized to require additional documentation if needed to verify the licensee's or applicant's ability to protect the health and safety of consumers.
- (f) The DSS CCLD shall provide to the applicant or licensee a written determination of its approval or denial of the proposed secured perimeter component of the plan of operation.

HANDBOOK ENDS HERE

(g) (Continued)

(h) (Continued)

Authority cited: Section 1530 and 1531.15, Health and Safety Code.

Reference: Sections 1501, 1507, 1512, 1520, 1528, 1531, ~~and~~ 1531.1 and 1531.15, Health and Safety Code.

Amend Section 80028 to read:

80028 CAPACITY DETERMINATION

80028

(a) through (f) (Continued)

(g) A Group Home or Adult Residential Facility that utilizes secured perimeters shall comply with Health and Safety Code section 1531.15(a).

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

(a) A licensee of an adult residential facility, short-term residential treatment center, or group home for no more than six residents, except for the larger facilities provided for in paragraph (1) of subdivision (k), that is utilizing delayed egress devices pursuant to Section 1531.1, may install and utilize secured perimeters in accordance with the provisions of this section.

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Authority cited: Sections 1530 and 1531.15, Health and Safety Code; and Section 10554, Welfare and Institutions Code.

Reference: Section 11465, Welfare and Institutions Code; and Sections 1501, 1523, 1524, 1528, ~~and~~ 1531 and 1531.15, Health and Safety Code.

Amend Section 80065 to read:

80065 PERSONNEL REQUIREMENTS

80065

(a) through (e) (Continued)

- (f) All personnel shall be given on-the-job training or shall have related experience which provides knowledge of and skill in the following areas, as appropriate to the job assigned and as evidenced by safe and effective job performance.

(1) through (7) (Continued)

- (8) The licensee of a Group Home or Adult Residential Facility that has been approved by the Department to utilize secured perimeters shall meet the staff training requirements as established by the Health and Safety Code section 1531.15(e) and the California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56070(b).

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

- (e) The licensee shall provide staff training regarding the use and operation of the secured perimeters, protection of residents' personal rights, lack of hazard awareness and impulse control behavior, and emergency evacuation procedures.

California Code of Regulations, Title 17, Section 56070 provides in pertinent part:

- (b) In addition to any other required training, the licensee or applicant shall provide 16 hours of training for each direct care staff, prior to staff being left alone with clients, which shall include at least the following:
- (1) The personal rights of facility residents, including rights related to utilizing secured perimeters and delayed egress devices.
 - (2) Behavior management techniques of consumers lacking hazard awareness and impulse control.
 - (3) Emergency procedures in the event of a medical emergency or facility disaster.

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(g) through (m) (Continued)

- (n) A licensee of a Group Home or Adult Residential Facility that has been approved by the Department to utilize secured perimeters shall comply with Health and Safety Code section 1531.15(g) and California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56071(a).

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Health and Safety Code section 1531.15 provides in pertinent part:

- (g) Secured perimeters shall not substitute for adequate staff.

California Code of Regulations, Title 17, section 56071 provides in pertinent part:

- (a) The use of secured perimeters shall not substitute for adequate staff in sufficient numbers to meet the care and supervision needs of all consumers, including additional staffing as determined to be necessary by a consumer's regional center planning team.

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- (o) A Group Home or Adult Residential Facility licensee that utilizes secured perimeters shall ensure that each direct care staff is trained in Emergency Intervention as required by Section 84365 for Group Homes and Section 85300 for Adult Residential Facilities.

Authority cited: Sections 1530 and 1531.15, Health and Safety Code.

Reference: Sections 1501, 1522, 1531, 1531.15 and 1562, Health and Safety Code; and Section 42001, Vehicle Code.

Amend Section 80068 to read:

80068 ADMISSION AGREEMENTS

80068

(a) through (c) (Continued)

(d) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall ensure that the client's admission agreements contain written consent agreeing to the placement when the client has not been court ordered to be placed in a facility with secured perimeters.

(1) Written consent shall be signed by a non-conserved resident, 18 or older, or, as appropriate, the resident's conservator or other person with legal authority and shall contain the following:

(A) A description of the location and manner in which the perimeter will be secured.

(B) A statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked.

(C) A statement that consent may be withdrawn at any time, pursuant to Section 80072(c).

(de) (Continued)

(ef) (Continued)

(fg) (Continued)

(gh) (Continued)

(hi) (Continued)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1507, 1512, 1524.7 and 1531, Health and Safety Code; Section 4803, Welfare and Institutions Code; and Section 2881, Public Utilities Code.

Amend Section 80070 to read:

80070 CLIENTS RECORDS

80070

(a) through (g) (Continued)

(h) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall meet the requirements of the California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Sections 56073(b), (c), (e), (m) and Sections 56071(b) through (b)(2).

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California Code of Regulations, Title 17, Section 56073(b) provides in pertinent part:

(b) Prior to placement in a facility utilizing secured perimeters, the regional center shall obtain either a court order authorizing the placement or written consent agreeing to the placement. These documents shall be provided to the residential service provider and maintained in the regional center's records required by Section 56060.

(1) The written consent shall be signed by:

(A) A non-conserved consumer, 18 or older, or, as appropriate, the consumer's conservator or other person with legal authority, or

(B) For a consumer under 18 years of age, by the person having the legal authority to place the consumer in the facility using secured perimeter.

(2) The written consent shall include:

(A) A description of the location and manner in which the perimeter will be secured.

(B) A statement that the facility has delayed egress devices of the time delay type and the perimeter fence is locked.

(C) A statement that consent may be withdrawn at any time.

(c) The following shall be maintained in the consumer's file at the facility required by Section 56059:

(1) The court order or written consent required under subdivision (b).

- (2) Documentation of the date and time of any withdrawal of consent.
- (d) If the consumer's placement is pursuant to a court order, the consumer may remain in the facility upon expiration of the order only if it is determined that he or she meets the admission and continued stay requirements of this section and consent is obtained as provided in (b)(1).
- (e) . . . The IPP shall include a plan to transition the consumer to a less restrictive setting. A copy of those portions of the current IPP related to the residential placement and community services and supports, including the transition plan, shall be maintained in the consumer's record at the facility.
- . . .
- (m) If the individual who signed the consent form for placement pursuant to subdivision (b) informs the licensee or the regional center that he or she withdraws his or her consent to the placement, the following shall occur:
 - (1) Upon notification of the withdrawal of consent, the licensee shall immediately inform the regional center, or the regional center shall immediately inform the licensee, as applicable.
 - (2) The licensee and the regional center shall document the withdrawal of consent in the consumer's records maintained, respectively, by the facility and the regional center.
 - (3) The licensee shall inform the consumer, verbally and in writing, of his or her right not to be subject to the secured perimeter, in accord with procedures established pursuant to Section 56070(a)(2)(E).

California Code of Regulations, Title 17, Section 56071 provides in pertinent part:

- (b) The licensee or applicant shall maintain one of the following documents in the consumer's individual consumer file maintained by the facility:
 - (1) The written consent for placement, described in paragraph (1) of subdivision (b) of Section 56073.
 - (2) A court order authorizing placement of the consumer in a non-state-operated facility utilizing secured perimeters.

HANDBOOK ENDS HERE

- (1) If the informed consent agreeing to the placement in a facility is signed by a client's legally authorized representative, the licensee shall obtain documentation showing that the authorized representative is legally entitled to act on behalf of the client, in

this regard, including but not limited to any court order authorizing the individual to act on the client's behalf.

- (i) In addition to these requirements, a licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall ensure that the documents required by Title 17, Section 56073 are maintained in the client record.

HANDBOOK BEGINS HERE

California Code of Regulations, Title 17, Section 56073(a) provides in pertinent part:

- (a) Prior to an admission to an adult residential facility or group home utilizing secured perimeters, the regional center shall conduct a comprehensive assessment and convene a planning team meeting to determine whether the consumer lacks hazard awareness or impulse control and requires the level of supervision afforded by a facility equipped with secured perimeters and delayed egress devices. The planning team's determination shall be documented in the client record.

HANDBOOK ENDS HERE

Authority cited: Section 1530 and 1531.15, Health and Safety Code.

Reference: Sections 1501, 1507, ~~and~~ 1531 and 1531.15, Health and Safety Code.

Amend Section 80072 to read:

80072 PERSONAL RIGHTS

80072

(a) (Continued)

(b) Section 1531.15(j) of the Health and Safety Code shall apply to a licensee of a Group Home or Adult Residential Facility that has received approval from the Department for the use secured perimeters.

HANDBOOK BEGINS HERE

Health and Safety Code section 1531.15 provides in pertinent part:

(j) For the purpose of using secured perimeters, the licensee shall not be required to obtain a waiver or exception to a regulation that would otherwise prohibit the locking of a perimeter fence or gate.

HANDBOOK ENDS HERE

(c) In the event the a licensee of a Group Home or Adult Residential Facility is using secured perimeters and a written consent has been obtained for a client agreeing to the placement in the facility using secured perimeters, the client or, as appropriate, the consumer's conservator or other person with legal authority, shall have the right to withdraw the written consent at any time.

(1) If consent is revoked then the client shall not be subject to secured perimeters.

(bd) (Continued)

(ee) (Continued)

(df) (Continued)

Authority cited: Section 1530 and 1531.15, Health and Safety Code.

Reference: Sections 1501, ~~and~~ 1531 and 1531.15, Health and Safety Code.

Amend Section 80087 to read:

80087 BUILDINGS AND GROUNDS

80087

(a) through (i) (Continued)

- (j) A licensee of a Group Home or Adult Residential Facility that has been approved to utilize secured perimeters shall comply with Health and Safety Code section 1531.15(i) and California Code of Regulations, Title 17, Division 2, Chapter 3, Subchapter 4, Article 12, Section 56071(c):

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Health and Safety Code section 1531.15 provides in pertinent part:

- (i) Interior and exterior space shall be available on the facility premises to permit clients to move freely and safely.

California Code of Regulations, Title 17, Section 56071 provides in part:

- (c) Grounds of residential facilities governed by this article may be fenced, and gates therein equipped with locks, provided safe dispersal areas are located not less than 50 feet (15240mm) from the buildings. Dispersal areas shall be sized to provide an area of not less than three square feet (0.282) per occupant. Gates shall not be installed across corridors or passageways leading to the dispersal areas unless they comply with the exit requirements of Section 1021 of the California Building Standards Code.

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Authority cited: Section 1530 and 1531.15, Health and Safety Code.

Reference: Sections 1501, ~~and~~ 1531 and 1531.15, Health and Safety Code

EMERGENCY INTERVENTION

Amend Section 85000 to read:

85000 GENERAL 85000

(a) Adult ~~r~~Residential ~~f~~Facilities, as defined in ~~s~~Section 80001-(a)-(5), shall be governed by the provisions specified in this chapter and in ~~e~~Chapter 1-, General Requirements. In addition, Subchapter 1 of this chapter shall apply when a licensee utilizes or reasonably foresees that he or she will utilize a manual restraint or seclusion.

(1) Section 85302 shall apply to all Adult Residential Facilities.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code.

Amend Section 85068.2 to read:

85068.2 NEEDS AND SERVICES PLAN

85068.2

- (a) Prior to admission, the licensee shall determine whether the facility's program can meet the prospective client's service needs.
- (b) If the client is to be admitted, then prior to admission, the licensee shall complete a written Needs and Services Plan, which shall include:
 - (1) The client's desires and background, obtained from the client, the client's family or his/her authorized representative, if any, and licensed professional, where appropriate, regarding the following:
 - (A) through (F) (Continued)
 - (G) The licensee shall document the results of the initial assessment of the client, conducted pursuant to Health and Safety Code section 1180.4(a) prior to or on the day of admission.
 - 1. The licensee shall document the initial assessment based on information available at the time of the assessment. This information shall be maintained and brought current thereafter as needed.
 - 2. This assessment shall include, but not be limited to, input from the following parties: the client, authorized representative if any, and, if the client chooses, a person designated by the client, including but not limited to a family member or a significant other. That designated person may be present at the time of admission in accordance with Health and Safety Code section 1180.4(a).
 - 3. This assessment shall also include, based on the information available at the time of the initial assessment, all of the following:
 - a. A client's advance directive regarding de-escalation or the use of seclusion or manual restraints. This advance directive means the client's wishes regarding techniques the licensee will use related to de-escalation or the use of restraint and seclusion.
 - i. The licensee shall be required to honor the client's advance directive unless it violates statute or regulation or it jeopardizes the health or safety of the client or another person.

- ii. A de-escalation technique is one designed to defuse a potentially dangerous interaction between two or more individuals.
- b. Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.
- c. Techniques, methods or tools that would help the person control his or her behavior.
- d. Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.
- e. Any trauma history, including any history of sexual or physical abuse that the affected client feels is relevant.

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Health and Safety Code section 1180.4 provides in pertinent part:

- (a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct an initial assessment of each person prior to placement decision or upon admission to the facility, or as soon thereafter as possible. This assessment shall include input from the person and from someone whom he or she desires to be present, such as a family member, significant other, or authorized representative designated by the person, and if the desired third party can be present at the time of admission. This assessment shall also include, based on the information available at the time of initial assessment, all of the following:
 - (1) A person's advance directive regarding de-escalation or the use of seclusion or behavioral restraints.
 - (2) Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.
 - (3) Techniques, methods, or tools that would help the person control his or her behavior.

(4) Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.

(5) Any trauma history, including any history of sexual or physical abuse that the affected person feels is relevant.

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(H) The client's individual emergency intervention plan, required by Section 85368.2(a).

(2) (Continued)

(c) and (d) (Continued)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1180.4, 1501, 1507 and 1531, Health and Safety Code.

Adopt Subchapter 1, Article 1, Section 85300 to read:

SUBCHAPTER 1. EMERGENCY INTERVENTION

Article 1. GENERAL REQUIREMENTS

85300 GENERAL PROVISIONS 85300

- (a) In addition to Chapters 1 and 6, the licensee of an Adult Residential Facility is governed by the provisions of this subchapter when a licensee utilizes or reasonably foresees that he or she will utilize a manual restraint or seclusion.
- (b) When a client's behavior presents an imminent danger of serious injury to self or others, the licensee shall use a continuum of interventions starting with the least restrictive intervention. More restrictive interventions may be used only when less restrictive interventions are determined to be ineffective.

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Health and Safety Code section 1180.4(j) provides in pertinent part:

A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall afford to persons who are restrained the least restrictive alternative and the maximum freedom of movement, while ensuring the physical safety of the person and others, and shall use the least number of restraint points.

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- (c) Adult Residential Facility staff may use manual restraint or seclusion with a client only if:
 - (1) The force used does not exceed that which is necessary to avert the injury or danger being threatened;
 - (2) The risk of injury caused by the force applied does not exceed the risk of injury being averted;
 - (3) The manual restraint or seclusion is used when a client's behavior presents an imminent danger of serious injury to self or others;
 - (4) The duration of a manual restraint or seclusion ceases as soon as the risk of imminent danger of serious injury to self or others from the client's behavior has ceased; and
 - (5) The manual restraint or seclusion is not otherwise prohibited by statute or regulation.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1180.4, 1501, 1502, 1531 and 1562.3(c)(1)(I), Health and Safety Code.

Adopt Section 85301 to read:

85301 DEFINITIONS

85301

In addition to the definitions in Sections 80001 and 85001, the following shall apply:

- (a) (Reserved)
- (b) (1) "Behavior Management Consultant" means a person who designs and/or implements behavior modification intervention services and meets one of the following requirements:
 - (A) A Licensed Clinical Social Worker, pursuant to Business and Professions Code Sections 4996-4998.5.
 - (B) A Licensed Marriage and Family Therapist, pursuant to Business and Professions Code Sections 4980-4984.7.
 - (C) A psychologist, licensed by the Medical Board of California or Psychology Examining Board.
 - (D) A licensed registered nurse, pursuant to Business and Professions Code Section 2700 and subsequent Sections, possessing a master's degree in psychiatric-mental health nursing and listed as a psychiatric-mental health nurse by the Board of Registered Nursing.
 - (E) An advanced practice registered nurse, certified as a clinical nurse specialist, pursuant to Business and Professions Code Section 2838 and subsequent Sections, and participating in expert clinical practice in the specialty of psychiatric-mental health nursing.
 - (F) A Nurse Practitioner, as defined in the Business and Professions Code Section 2834.
 - (G) A professional with training and expertise in human behavior with California licensure, which permits the design of behavior modification intervention services.
- (c) (1) "Chemical Restraint" means involuntary emergency medication used to control behavior. This includes drugs used for control of inappropriate behavior and used in a manner not required to treat the individual's medical symptoms.
- (2) "Clinical and Quality Review" means a review that is strictly objective and based on training and the Plan of Operation.

(3) "Containment" means a brief physical (manual) restraint of a person for the purpose of effectively gaining quick control of a person who is aggressive or agitated or who is a danger to self or others as defined in Section 1180.1(b) of the Health and Safety Code.

(d) (Reserved)

(e) (1) "Emergency Intervention(s)" means safety measures to prevent imminent risk of serious physical harm to an individual and the methods used to offer immediate, short-term help to clients who experience an event that produces emotional, mental, physical, and behavioral distress or problems that have the potential to result in injury to self or others.

(2) "Emergency Intervention Plan" means a written plan, addressing the prevention of injury and implementation of emergency intervention techniques by the licensee, that is included in the facility's plan of operation as required by Section 85322(a)(1).

(3) "Emergency Intervention Training" means an instructional curriculum provided to facility personnel regarding the techniques that may be used to prevent injury to, and maintain safety for, clients who are a danger to themselves or others, and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraint and seclusion in accordance with Health and Safety Code sections 1180.3(b)(2) and 1567.64.

(f)-(h) (Reserved)

(i) (1) "Imminent Danger," in this subchapter means behavior that is reasonably certain to cause a substantial risk of death or serious physical injury.

(2) "Individual Emergency Intervention Plan" means a written plan addressing the prevention of injury and implementation of emergency intervention techniques by the licensee that will be used with a specific client, which are in addition to and are not prohibited by, the emergency intervention techniques set forth in the facility Emergency Intervention Plan. The plan shall be developed in consultation with a Qualified Behavior Modification Professional with input from the client and if available, someone whom he or she desires to provide input in accordance with Health and Safety Code section 1180.4(a). The plan shall include client-centered problem solving strategies that diffuse and safely resolve emerging crisis situations and strategies to minimize time spent in seclusion or behavioral restraints.

(j)-(l) (Reserved)

(m) (1) "Manual Restraint" means the same as "Physical Restraint" which means the use of a manual hold to restrict freedom of movement of all or part of a person's body, or to restrict normal access to the person's body, and that is used as a behavioral restraint on a client who presents an immediate danger to his or her self or to others.

Techniques include, but are not limited to, forced escorts; holding; wall restraint; brief prone restraint; or any staff-to-person physical contact in which the person unwillingly participates. This is further defined in Health and Safety Code section 1180.1(d).

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Health and Safety Code section 1180.1 provides in pertinent part:

- (a) "Behavioral restraint" means "mechanical restraint" or "physical restraint" as defined in this section, used as an intervention when a person presents an immediate danger to self or to others. It does not include restraints used for medical purposes, including, but not limited to, securing an intravenous needle or immobilizing a person for a surgical procedure, or postural restraints, or devices used to prevent injury or to improve a person's mobility and independent functioning rather than to restrict movement.[...]

- (d) "Physical restraint" means the use of a manual hold to restrict freedom of movement of all or part of a person's body, or to restrict normal access to the person's body, and that is used as a behavioral restraint. "Physical restraint" is any staff-to-person physical contact in which the person unwillingly participates. "Physical restraint" does not include briefly holding a person without undue force in order to calm or comfort, or physical contact intended to gently assist a person in performing tasks or to guide or assist a person from one area to another.

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- (m) (2) "Mechanical Restraint" means the use of a mechanical device, material, or equipment attached or adjacent to the person's body that he or she cannot easily remove and that restricts the freedom of movement of all or part of a person's body or restricts normal access to the person's body, and that is used as a behavioral restraint. Mechanical restraint devices include, but are not limited to, soft cloth ties, handcuffs, restraining sheets, restraining chairs, leather cuffs and belts or any other similar method. This is further defined in Health and Safety Code section 1180.1(c). Mechanical restraint does not include postural supports, as specified in Section 80072(a)(8).

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Health and Safety Code section 1180.1, subdivision (c) provides:

"Mechanical restraint" means the use of a mechanical device, material, or equipment attached or adjacent to the person's body that he or she cannot easily remove and that restricts the freedom of movement of all or part of a person's

body or restricts normal access to the person's body, and that is used as a behavioral restraint.

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(n)-(p) (Reserved)

(q) (1) "Qualified Behavior Modification Professional" means an individual with a minimum two years of experience in designing, supervising, and implementing behavior modification services who is one of the following:

(A) An Assistant Behavior Analyst certified by the National Behavior Analyst Certification Board as a Certified Assistant Behavior Analyst;

(B) A Behavior Analyst certified by the National Behavior Analyst Certification Board as a Certified Behavior Analyst;

(C) A Licensed Clinical Social Worker, pursuant to Sections 4996-4998.5 of the Business and Professions Code;

(D) A Licensed Marriage and Family Therapist, pursuant to Sections 4980-4984.7 of the Business and Professions Code;

(E) A psychologist, licensed by the Medical Board of California or Psychology Examining Board; or

(F) A licensed professional with California licensure, which permits the design of behavior modification intervention services.

(r) (Reserved)

(s) (1) "Seclusion" as defined in Health and Safety Code section 1180.1(e).

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Health and Safety Code section 1180.1, subdivision (e) provides:

"Seclusion" means the involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. "Seclusion" does not include a 'timeout' as defined in regulations relating to facilities operated by the State Department of Developmental Services.

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(2) "Seclusion Room" means a room specifically designated and designed for the involuntary seclusion of a client for a limited period when a client's behavior presents

an imminent danger of serious injury to self or others. No person with a developmental disability may be placed in a seclusion room in accordance with Title 17, Section 50515(a).

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Title 17, California Code of Regulation, Section 50515(a) provides in pertinent part:

- (a) Seclusion. No person with a developmental disability shall be placed in seclusion. The use of "time out" procedures may be employed only under the following circumstances:
- (1) State Hospital. The procedure used complies with regulations promulgated by the director pursuant to Welfare and Institutions Code section 4505.
 - (2) Community Care or Health Facility. A written agreement exists between the placing regional center and the facility which complies with regulations promulgated by the director pursuant to Welfare and Institutions Code section 4505.

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- (3) "Serious Injury" as defined in Health and Safety Code section 1180.1(g).

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Health and Safety Code section 1180.1 provides in pertinent part:

- (g) "Serious injury" means significant impairment of the physical condition as determined by qualified medical personnel, and includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, or injuries to internal organs.

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- (t) "Time-Out" means a behavioral management technique involving the client, voluntarily and without force, being separated from the current environment to calm and allow the client to regain self-control.

(u)-(z) (Reserved)

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1180, 1180.1, 1180.3, 1180.4, 1180.5, 1501 and 1531, Health and Safety Code. Sections 2700, 2834, 2838, 4996-4998.5, 4980-4984.7, Business and Professions Code. Section 54342, California Code of Regulations, Title 17.

Adopt Subchapter 1, Article 2, Section 85302 to read:

ARTICLE 2. PROHIBITIONS

85302 EMERGENCY INTERVENTION PROHIBITIONS

85302

Notwithstanding 85300(a), Section 85302 shall apply to all Adult Residential Facilities as follows:

(a) The following emergency interventions shall not be used on a client:

- (1) Mechanical restraints;
- (2) Manual restraint as an extended procedure;
- (3) Manual restraint or seclusion when imminent risk of serious physical harm to self or others is no longer present;
- (4) Adverse behavior modifications, including but not limited to body shaking, water spray, slapping, pinching, ammonia vapors, sensory deprivation and electric shock;
- (5) Pain, induced to control behavior or limit movement, including but not limited to arm twisting, finger bending, joint extensions and headlocks;
- (6) Any manual restraint technique that obstructs a person's airway or impairs or restricts breathing or circulation;
- (7) Manual restraint with the person's hands held or restrained behind the person's back;
- (8) Any manual restraint technique in which a staff member places pressure on a person's back or places his or her body weight against the person's torso or back;
- (9) Placement of an item that covers the head or face;
 - (A) Padding, placed under the head, to prevent injury is permitted, provided it does not impair breathing.
- (10) Chemical restraint or psychotherapeutic or behavior modifying drugs in a manner prohibited by Health and Safety Code section 1180.4(k);

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Health and Safety Code section 1180.4, subdivision (k) provides:

A person in a facility described in subdivision (a) of Section 1180.2 and subdivision (a) of Section 1180.3 has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, the right to be free from the use of a drug used in order to control behavior or to restrict the person's freedom of movement, if that drug is not a standard treatment for the person's medical or psychiatric condition.

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- (11) Techniques reasonably expected to cause serious injury that may require medical treatment from a health practitioner, licensed under division 2 of the Business and Professions Code;
- (12) Verbal abuse or physical threats;
- (13) Isolation in an area from which the client cannot voluntarily exit including, but not limited to, denying a request from a non-ambulatory client to exit a chair or an unlocked room. This prohibition does not apply to a Seclusion Room;
- (14) Manual restraint or seclusion for more than 15 consecutive minutes unless the licensee is in compliance with Section 85322(e)(6);

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Health and Safety Code section 1180.4, subdivision (h) provides:

A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use physical restraint or containment as an extended procedure. A facility described in subdivision (a) of Section 4684.80 of the Welfare and Institutions Code that is licensed by the State Department of Social Services shall not use physical restraint or containment for more than 15 consecutive minutes. The department may, by regulation, authorize an exception to the 15 minute maximum duration if necessary to protect the immediate health and safety of residents or others from risk of imminent serious physical harm.

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- (15) Punishment, discipline, harassment, humiliation, coercion or retaliation.
- (b) Manual restraint or seclusion shall not be used:
 - (1) As a substitution for staff;

- (2) For the convenience of staff;
- (3) As a substitute for, or as part of a treatment program;
- (4) As a substitute for, or as part of a behavior modification program;
- (5) To prevent a client from leaving a room or area or the facility when there is no immediate threat to health and safety of the individuals or others.
- (6) When a client's medical or physical condition or the Client Medical Assessment indicates that there is reason to believe that the intervention would endanger the client's life or seriously worsens the client's medical condition.
- (7) If it is prohibited by the facility's Emergency Intervention Plan or the client's Individual Emergency Intervention Plan;

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Health and Safety Code section 1180.4, subdivisions (d) provides:

A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use physical or mechanical restraint or containment on a person who has a known medical or physical condition, and there is reason to believe that the use would endanger the person's life or seriously exacerbate the person's medical condition.

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Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1180.2, 1180.3, 1180.4, 1501, 1502, and 1531, Health and Safety Code.

Adopt Subchapter 1, Article 3, Section 85322 to read:

Article 3. APPLICATION AND LICENSING PROCEDURES

85322 EMERGENCY INTERVENTION PLAN 85322

- (a) The applicant or licensee shall be responsible to ensure an Emergency Intervention Plan is developed and approved by the Department prior to the use of manual restraint or seclusion, if staff use or it is reasonably foreseeable that staff will use these techniques.
 - (1) The Emergency Intervention Plan shall be designed and approved by the applicant or licensee in conjunction with a Behavior Management Consultant and shall be part of the Plan of Operation.
- (b) The Emergency Intervention Plan shall specify the less restrictive or non-physical de-escalation methods that may be used to identify and prevent behaviors that lead to the use of manual restraint or seclusion.
- (c) The Emergency Intervention Plan shall also specify the techniques that a licensee may use in an emergency when the use of manual restraint or seclusion is necessary to prevent serious physical harm to an individual and no less restrictive or non-physical technique is effective.
- (d) The Emergency Intervention Plan shall include:
 - (1) Staff qualifications sufficient to implement the plan.
 - (2) A list of job titles of the staff required to be trained to use manual restraint and/or seclusion.
 - (3) A list of emergency intervention techniques beginning with the least restrictive intervention, which shall include:
 - (A) A description of each emergency intervention technique that may be used.
 - 1. Prone containment shall only be used in compliance with Section 1180.4(f) of the Health and Safety Code.

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Health and Safety Code Section 1180.4(f) provides in pertinent part:

- (f) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall avoid the deliberate use of prone containment techniques whenever possible, utilizing the best

practices in early intervention techniques, such as de-escalation. If prone containment techniques are used in an emergency situation, a staff member shall observe the person for any signs of physical duress throughout the use of prone containment . . .

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- (B) The maximum time limits for each manual restraint and/or seclusion technique, not to exceed maximum time limits, as specified in Sections 85302(a)(14).
- (C) The purpose or expected outcome for clients.
- (4) A description of the circumstances and the types of client behaviors for which the use of emergency interventions are needed.
- (5) Procedures for maintaining care and supervision and reducing the trauma of other clients when staff are required for the use of emergency interventions.
- (6) Procedures for crisis situations, when more than one client requires the use of emergency interventions simultaneously.
- (7) Procedures for re-integrating the client into the facility routine after the need for an emergency intervention has ceased.
- (8) Criteria for assessing when an Emergency Intervention Plan needs to be modified or terminated.
- (9) Criteria for assessing when the licensee does not have adequate resources to meet the needs of a specific client.
- (10) Criteria for assessment when community emergency services are necessary to assist staff during an emergency intervention.
 - (A) A list of the community emergency services to assist staff.
- (11) Procedures to ensure a client in crisis does not injure or endanger self or others.
- (12) Criteria for assessing when an Individual Emergency Intervention Plan needs to be modified or terminated.
- (13) A statement clarifying that only staff trained as required by Section 85365(b), may use emergency interventions.
- (e) If staff will use, or it is reasonably foreseeable staff will use, manual restraint or seclusion or both, the licensee shall include and ensure the following time limitations are adhered to

in the Emergency Intervention Plan. The Emergency Intervention Plan shall include procedures for ensuring:

- (1) Client safety when a manual restraint or seclusion is used, including the title(s) of staff responsible for checking the client's breathing and circulation.
 - (A) A determination for when a medical examination is needed during or after a manual restraint or seclusion, as specified in Section 85369.
- (2) The use of manual restraint or seclusion or both shall not be used if a less restrictive, nonphysical intervention is possible. The use of manual restraint or seclusion or both shall not cause injury to the client or others in the facility.
- (3) The amount of time a client is in a manual restraint or seclusion is limited to when the client is presenting an imminent danger of serious injury to self or others.
- (4) Staff shall respond immediately and appropriately to a client's request for services, assistance and repositioning.
- (5) During the continued use of a manual restraint or seclusion a trained staff person not involved in the manual restraint or seclusion shall perform an assessment which shall include, but is not limited to, the following:
 - (A) A visual check of the client's physical well-being to ensure the client is not injured and the client's breathing and circulation are not impaired;
 - (B) Whether community emergency services, as described in Section 85322(d)(10)(A) need to be called;
 - (C) Ensuring the safety of the client;
 - (D) Ensuring the safety of staff involved;
 - (E) Determining if the client's behavior poses an imminent risk of serious physical harm; and
 - (F) Determining if a less restrictive intervention is warranted.
- (6) Unless discontinued sooner, at 15 consecutive minutes after the initiation of a manual restraint or seclusion, staff shall discontinue the manual restraint or seclusion.
 - (A) The only exception to the 15 minute limitation above shall be when there is a continued need to protect the immediate health and safety of the client or others from risk of imminent serious physical harm and concurrent approval is obtained by the certified administrator for every exception.

1. The administrator's approval shall be documented in the client record within 24 hours and also include an explanation of why it was necessary for the manual restraint or seclusion to go over 15 minutes, including a description of the client's imminently dangerous behavior.
 2. The certified administrator mentioned in Section 85322(e)(6)(A)1. above shall not be a participant in the manual restraint.
- (7) The licensee shall outline in the Emergency Intervention Plan, the procedures to ensure the safety of clients and staff in the event the client continues to pose an immediate serious danger to self or others after 15 consecutive minutes of manual restraint or seclusion.
- (8) Client safety when a client is placed in a seclusion room, including the following:
 - (A) Staff shall be free from other responsibilities and maintain direct visual contact with the client at all times. The visual contact shall not be through video and/or audio equipment or electronic transmission.
 1. Staff shall remain in the seclusion room, when necessary, to prevent injury to the client.
 - (B) Staff shall make reasonable efforts to ensure the client does not possess objects that could be used to inflict injury to self or others while in the seclusion room.
 - (C) Only one client shall be placed in a seclusion room at a time.
- (9) Each use of manual restraint or seclusion is documented in the client's record.
- (10) There is a review of each use of manual restraint or seclusion, as specified in Section 85368.3.
- (11) Access to necessary community emergency services, including emergency response personnel, when the use of emergency interventions is not effective or appropriate.
- (12) Staff are aware of the client's medical or physical condition(s), and comply with any necessary limitations or prohibition of the use of manual restraint or seclusion.
- (13) When staff are involved in a manual restraint or seclusion, there shall be additional staff to provide care and supervision to the other client(s) who are not involved in the manual restraint or seclusion.
- (f) The Emergency Intervention Training Plan shall be a component of the Emergency Intervention Plan and shall include:

- (1) The course type, title and a brief description of the training staff completed;
 - (2) Training requirements for new staff;
 - (3) The ongoing training requirement for existing staff including timeframes and frequency of refresher training to ensure staff maintain their skills;
 - (4) Training curriculum;
 - (5) The qualification(s) of the instructor(s) providing the training.
 - (6) Evidence that the training plan is based on research and that the training topics are appropriate for the client population and services provided by the facility.
- (g) The Emergency Intervention Plan shall include procedures for an internal six month review of the use of manual restraint and seclusion, which shall include:
- (1) A review, conducted by the administrator or the administrator's designee and the Qualified Behavior Modification Professional;
 - (2) An analysis of patterns and trends of the use of manual restraint and seclusion in the previous six month period, based on a review of:
 - (A) All records, related to the use of manual restraint and seclusion, for accuracy and completeness;
 - (B) The use, outcome and duration of each manual restraint or seclusion, including injuries and determinations of the appropriateness of the manual restraint and seclusion technique used in each situation; and
 - (C) The frequency of manual restraint(s) and seclusion(s).
 - (3) The development of a corrective action plan to resolve problems identified in the six month review, including amendments to the Emergency Intervention Plan, or to other internal procedures.
- (h) Documentation of the six month review, corrective action plan and a copy of all emergency intervention incident reports shall be maintained at the facility and shall be available for review, inspection, audit and copy, upon request, by the Department.
- (1) The licensee shall document when no manual restraint or seclusion has occurred.
 - (2) A copy of the six month review shall be maintained in the client's record and available for review, inspection, audit and copy, upon request, by the Department, as specified in Section 80070.

- (i) The licensee shall provide a copy of the six month review and corrective action plan, if applicable, to the client's authorized representative, if any, upon request.
- (j) The licensee shall immediately discontinue the use of manual restraint or seclusion, if both of the following apply:
 - (1) The licensee has used a manual restraint or seclusion and has been cited for non-compliance with this subchapter, Sections 80072 or 85072.
 - (2) The Department provides written notice to the licensee prohibiting the use of manual restraint or seclusion.

Authority Cited: Sections 1530, 1567.64 and 1567.82, Health and Safety Code.

Reference: Sections 1180, 1180.2, 1180.3, 1180.4, 1180.5, 1501 and 1531, Health and Safety Code.

Adopt Subchapter 1, Article 6, Section 85361 to read:

Article 6. CONTINUING REQUIREMENTS

85361 EMERGENCY INTERVENTION DOCUMENTATION AND 85361
REPORTING REQUIREMENTS

- (a) Each use of manual restraint or seclusion shall be reported to the client's authorized representative, if any, by telephone, no later than the next calendar day. This report shall include the type of emergency intervention used, the duration of the manual restraint or seclusion, the time the event was reported to the authorized representative, and the time and response of the authorized representative and shall be documented in the client's file.
- (b) Each use of manual restraint or seclusion shall be reported to the Department in writing no later than the next business day. This time frame shall supersede the reporting time frame required by Section 80061(b).
- (1) An incident report of the use of the manual restraint or seclusion shall be reviewed, for accuracy and completeness, and signed by the licensee or licensee's designee prior to submission to the Department.
- (2) If a manual restraint or seclusion technique that was not part of the facility Emergency Intervention Plan or the Individual Emergency Intervention Plan was used during the emergency intervention, the plan for corrective action, at minimum, shall require staff to repeat or obtain emergency intervention training. Within 24 hours of the licensee's discovery of non-compliance of the Plan, the licensee shall also submit a plan for corrective action to the Department to describe how he or she will ensure that there is no recurrence of a violation of the Plan. This shall not impede upon the Department's authority to enforce applicable statutes and regulations or initiate administrative action.
- (c) The report in Section 85361(b) above must include the following:
- (1) A description of the client's behavior that required the use of manual restraint or seclusion, and description of the precipitating factors, including behaviors of others, which led to the intervention.
- (2) Description of what manual restraints were used, how long the client was restrained or secluded, and if the restraint resulted in the use of seclusion.
- (3) Description of what non-physical interventions were utilized prior to the use of the manual restraint or seclusion; explanation of why more restrictive interventions were necessary.

- (4) The client's verbal response and physical appearance, including a description of any injuries at the completion of the manual restraint or seclusion, whether they are related to the manual restraint or seclusion, and how the licensee became aware of the injury.
 - (5) Description of injuries sustained by the client or facility personnel, what type of medical treatment was sought and where was client taken or an explanation if medical treatment was not sought for injuries.
 - (6) Name(s) of facility personnel who participated in or witnessed the manual restraint or seclusion.
 - (7) Name of the certified administrator who approved the continuation of the manual restraint or seclusion for more than 15 minutes.
 - (8) If it is determined in the debriefing, as required in Section 85368.3, that facility personnel did not adequately attempt to prevent the manual restraint or seclusion, a description of what action should have been taken by facility personnel to prevent the manual restraint or seclusion incident shall be documented. This documentation shall also include what corrective action will be taken or not taken and why.
 - (9) If law enforcement was involved, a description of the precipitating factors, including behaviors of others, which led to the police intervention.
 - (10) Date and time of other manual restraint or seclusion involving the same client in the past 24 hours.
- (d) If it is necessary to continue the use of manual restraint or seclusion for more than 15 minutes it shall be documented in accordance with Section 85322(e)(6)(A)1.
 - (e) A copy of the incident report shall be made available for review, inspection, audit or copy, upon request, by the Department as specified in Section 80070.
 - (f) The information required in subdivision (b), shall be documented following the use of manual restraint or seclusion no later than the end of the working shift(s) of the staff(s) who participated in the manual restraint or seclusion, or both.
 - (g) The licensee shall maintain a monthly log of information related to each use of manual restraint or seclusion, which includes:
 - (1) The name of each client for which a manual restraint or seclusion was used.
 - (2) The date and time of the manual restraint or seclusion.
 - (3) The duration of time of the manual restraint or seclusion.

- (4) The behaviors of others connected to the incident and factors that contributed to the incident.
- (5) The name(s) and job title(s) of staff that participated in the manual restraint or seclusion.
- (6) The name of the certified administrator that approved the continuation of the manual restraint or seclusion for more than 15 minutes, if applicable.
- (7) A description of the manual restraint or seclusion and type used, including:
 - (A) The outcome to the client, including injury or death.
 - (B) The outcome to the staff, including injury or death.
 - (C) Whether the injury in Section 85361(g)(7)(A) and (B) above was serious as defined in Health and Safety Code section 1180.1(g)

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Health and Safety Code section 1180.1 provides in pertinent part:

- (g) "Serious injury" means significant impairment of the physical condition as determined by qualified medical personnel, and includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, or injuries to internal organs.

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- (8) The total number of incidents of manual restraint and the total number of incidents of seclusion per month.
- (9) The total number of serious injuries to clients as a result of manual restraint or seclusion per month.
- (10) The total number of non-serious injuries to clients as a result of manual restraint or seclusion per month.
- (11) The total number of serious injuries to staff as a result of manual restraint or seclusion per month.
- (12) The number of deaths per month that occur to a client while in a manual restraint or seclusion, or where it is reasonable to assume that a death was related to the use of manual restraint or seclusion.

(h) The monthly log specified in (g) shall be available for review, inspection, audit and copy, upon request, by the Department.

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1180.2, 1180.3, 1180.5, 1501 and 1531, Health and Safety Code.

Adopt Section 85365 to read:

85365 EMERGENCY INTERVENTION STAFF TRAINING

85365

- (a) The licensee shall ensure staff who use, participate in, approve, or provide visual checks of manual restraint or seclusion only use techniques specified in the Emergency Intervention Plan and which are not prohibited in Section 85302.
- (b) Staff who use, participate in, approve or provide visual checks of manual restraint or seclusion, shall have a minimum of sixteen hours of emergency intervention training and be certified for having successfully completed the training.
 - (1) Staff who use, participate in, approve or provide visual checks of manual restraints or seclusions, shall be trained in the manual restraint or seclusion technique utilized.
 - (2) Staff shall maintain valid certification.
 - (3) Staff shall have a minimum of 6 hours of annual refresher training following the initial training certification. The provisions specified in Section 85365 (c)-(e) and, (g) shall also apply to this training.
- (c) The training shall be provided by an individual holding a valid instructor certificate from a program for preventing and safely managing dangerous behavior. The licensee shall maintain a copy of the trainer's certificate and make it available for review, inspection, audit and copy, upon request, by the Department.
- (d) The emergency intervention training curriculum shall address, at a minimum, the following:
 - (1) Techniques of group and individual behavior management, including, but not limited to, crisis prevention and intervention, positive behavioral supports, and precipitating factors leading to assaultive behavior.
 - (2) Methods of de-escalating volatile situations, including, but not limited to, non-physical intervention techniques such as crisis communication; or evasive techniques.
 - (3) Alternative methods of handling aggressive and assaultive behavior.
 - (4) If the licensee chooses to use manual restraints, the techniques of applying manual restraints in a safe and effective manner, ranging from the least to most restrictive type(s) of manual restraints, including, but not limited to, escorting, wall restraint, and floor containment.

- (5) Techniques for reintegrating the client back into the facility routine after the need for the emergency intervention has ceased.
- (6) Methods of assessing client specific information regarding how to keep a client safe.
- (e) Training for manual restraint and/or seclusion shall have a written competency test and a hands-on competency test administered by a certified trainer. The certified trainer shall be present for the hands-on competency test.
- (f) The administrator who will approve the continued use of a manual restraint or seclusion shall complete additional training which shall include the following:
 - (1) Techniques to identify staff and client behaviors, events, and environmental factors that may trigger circumstances that require the use of a manual restraint or seclusion;
 - (2) The use of nonphysical intervention skills;
 - (3) Choosing the least restrictive intervention based on the individualized assessment of the client's medical, or behavioral status or condition as required by Section 85068.2(b)(1)(G);
 - (4) The safe application and use of all types of manual restraints or seclusions permitted in the facility, including training in how to recognize and respond to signs of physical and psychological distress, such as positional asphyxia;
 - (5) Identification of specific behavioral changes that indicate that a manual restraint or seclusion is no longer necessary;
 - (6) Monitoring the physical well-being of the client who is being manually restrained or secluded, including, but not limited to, respiratory and circulatory status, skin integrity, and vital signs. This shall not mean monitoring that requires training beyond basic first aid and CPR;
 - (7) Current first aid certification and current certification in the use of cardiopulmonary resuscitation (CPR).
- (g) All direct care staff and any other person in their direct management chain, up through and including the licensee, shall be trained in the facility Emergency Intervention Plan and on each client's Individual Emergency Intervention Plan.
- (h) The licensee shall maintain a written record of the staff training.
 - (1) Documentation of the training received by each staff member shall be maintained in the personnel records, pursuant to Section 80066, and include:

(A) Dates, hours, and description of the training completed, including name of the instructor and organization providing the training.

(B) Written verification from the instructor that the staff member has successfully completed the required training and passed the competency test(s).

Authority cited: Sections 1530, 1567.64 and 1567.82, Health and Safety Code.

Reference: Sections 1180, 1180.2, 1180.3, 1180.4, 1180.5, 1501, 1531 and 1562, Health and Safety Code.

Adopt Section 85368 to read:

85368 ADMISSION AGREEMENTS 85368

(a) In addition to Sections 80068 and 85068, the Admission Agreement shall include a list and short description of each of the emergency interventions the licensee may use.

(1) The facility's plan regarding the use of emergency interventions shall be reviewed with and approved by the client and his/her authorized representative, if any, prior to its implementation.

(2) The licensee shall provide a copy of the Emergency Intervention Plan to the client and the authorized representative, if any, at admission.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1180, 1180.4, 1501 and 1531, Health and Safety Code.

Adopt Section 85368.2 to read:

85368.2 NEEDS AND SERVICES PLAN

85368.2

In addition to Section 80068.2 and 85068.2, the following shall apply:

- (a) If the licensee will use or it is reasonably expected the licensee will use manual restraint or seclusion with a client when that client is an imminent danger to self or others, the licensee shall develop an individual emergency intervention plan for that client.
 - (1) The individual emergency intervention plan shall be based on the assessment required by Section 85068.2(b)(1)(G).
 - (2) The individual emergency intervention plan shall be updated as needed to ensure it meets the safety needs of clients.
 - (3) The client and authorized representative, if any, shall receive a copy of and approve the individual emergency intervention plan and any modification to the plan prior to implementation.

Authority cited: Sections 1530, Health and Safety Code.

Reference: Sections 1180, 1501, and 1531, Health and Safety Code.

Adopt Section 85368.3 to read:

85368.3 MANUAL RESTRAINT OR SECLUSION REVIEW

85368.3

- (a) The Licensee shall ensure that a debriefing occurs in accordance with Section 1180.5(b) of the Health and Safety Code.

HANDBOOK BEGINS HERE

Health and Safety Code section 1180.5(b) provides in pertinent part:

A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall, as quickly as possible but no later than 24 hours after the use of seclusion or behavioral restraints, conduct a debriefing regarding the incident with the person, and, if the person requests it, the person's family member, domestic partner, significant other, or authorized representative, if the desired third party can be present at the time of the debriefing at no cost to the facility, as well as with the staff members involved in the incident, if reasonably available, and a supervisor, to discuss how to avoid a similar incident in the future. The person's participation in the debriefing shall be voluntary. [...]

HANDBOOK ENDS HERE

- (b) The debriefing required by Section 85368.3(a) shall include:

- (1) An evaluation of whether the emergency intervention action taken by the staff was consistent with the facility Emergency Intervention Plan, Individual Emergency Intervention Plan, facility policies and training.
 - (A) If the use of any de-escalation technique causes an escalation of the client's behavior, the use of the technique shall be evaluated for effectiveness. De-escalation techniques that are ineffective or counter-productive shall be discontinued.
- (2) An evaluation of whether the manual restraint or seclusion was utilized only after less restrictive techniques were utilized and proven unsuccessful.
- (3) Identification of the factors that may have contributed to the incident and any alternate methods of helping the client avoid or cope with these factors.
- (4) An evaluation of whether the client was in a manual restraint and/or seclusion for the least amount of time necessary.
- (5) A discussion of circumstances and strategies for preventing future incidents.

(c) Documentation of the debriefing meeting in the client's record shall include the findings of the review, any modifications to the client's Needs and Services Plan, and any refusal by the client to participate in the review.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1180, 1180.1, 1180.5, 1501 and 1531, Health and Safety Code.

Adopt Section 85369 to read:

85369 MEDICAL EXAMINATION

85369

In addition to Section 80069, the following shall apply:

(a) Immediately following each manual restraint or seclusion, the administrator or administrator's designee shall have an in-person communication with the client to assess and determine whether there is a physical injury or suspected physical injury and whether a medical examination by qualified medical professional is needed.

(1) The decision and rationale whether to seek a medical examination shall be documented in the client's record.

(b) Any suspected physical injury or complaint of physical injury to the client, reported to or witnessed by staff during or after a manual restraint or seclusion shall be reported immediately to the administrator or administrator's designee, the licensee and the authorized representative. This shall also be included in the written incident report to the Department as specified in Section 85361(b).

(1) Any suspected serious injury shall be reported immediately to a qualified medical professional for examination.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1180.4, 1501, 1507 and 1531, Health and Safety Code.

Adopt Subchapter 1, Article 7, Section 85375 to read:

Article 7. PHYSICAL ENVIRONMENT

85375 SECLUSION ROOM

85375

- (a) In addition to Section 85322, a licensee at a facility with a seclusion room, shall not:
- (1) Use the seclusion room for another purpose such as a bedroom, a bathroom, or for storage.
 - (2) Use the seclusion room without a fire clearance allowing the use of the seclusion room from the city, county, or city and county fire department or district providing fire protection services, or the State Fire Marshal.
 - (A) The request for the fire clearance for use of the seclusion room shall be made through the Department and compliance with it shall be maintained by the licensee.
 - (3) Use the seclusion room without prior approval by the Department.
 - (A) The licensee shall submit the following to the Department in order to receive approval from the Department for the use of the seclusion room:
 1. if applicable, Facility Sketch and
 2. the staffing plan to be maintained for the use of the seclusion room.
 - (4) Deprive a client placed in the seclusion room of daily living functions, as specified in Section 80072(a)(3).
 - (5) Include a locking or jamming device on the door of the seclusion room.
 - (A) The seclusion room door shall only be shut in a manner providing for immediate release upon removal of a staff member's foot, hand, and/or body.
 - (6) Place a person with a developmental disability in seclusion, in accordance with California Code of Regulations, Title 17, Division 2, Chapter 1, Subchapter 5, Article 2, Section 50515.
 - (7) Use a room or another area for a seclusion that is not identified as the seclusion room in the Plan of Operations.

- (b) A control for the lighting of the seclusion room shall be located outside the room. A dimmer switch may be used if indicated in the client's Individual Emergency Intervention Plan. In order to ensure supervision of the safety of the client, in no event shall the light be completely turned off while the room is in use.
- (c) A seclusion room shall be free of hazards such as objects or fixtures which can be broken or used by a client to inflict injury to self or others.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1509 and 1531, Health and Safety Code.

Adopt Chapter 11, Article 1, Section 89900 to read:

CHAPTER 11. ENHANCED BEHAVIORAL SUPPORTS HOMES

Article 1. GENERAL REQUIREMENTS

89900 GENERAL PROVISIONS 89900

- (a) An Enhanced Behavioral Supports Home is governed by the provisions of this chapter and Chapter 1. Chapter 5 shall also apply to an Enhanced Behavioral Supports Home that is licensed as a Group Home. Chapter 6 shall also apply to an Enhanced Behavioral Supports Home that is licensed as an Adult Residential Facility.
- (b) Each Enhanced Behavioral Supports Home shall be licensed as an Adult Residential Facility or a Group Home and certified by the Department of Developmental Services in accordance with Health and Safety Code section 1567.62(a).
- (c) Placements of dual agency clients into Enhanced Behavioral Supports Homes that are licensed as Group Homes shall be subject to the limitations on the duration of the placement set forth in Sections 319.2 and 319.3, 361.2(e)(9)(A), and 361.2(e)(10) of the Welfare and Institutions Code.
 - (1) Dual agency clients are foster children in temporary custody of the child welfare agency under Section 319 of the Welfare and Institutions Code or under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code who are also either a client of regional center services, or who are receiving services under the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) but who are under three years of age and have not yet been determined to have a developmental disability. This is in accordance with Health and Safety Code section 1567.62(e).
- (d) An Enhanced Behavioral Supports Home shall maintain a facility file as required by the California Code of Regulations, Title 17, Section 59070.
 - (1) The facility file shall be immediately available upon request of the licensing agency and must be the original or a facsimile of the original. A facsimile is an exact copy of the original.
 - (A) In the event the Licensing Program Analyst requests a physical copy, whether electronic or paper, the copy shall be a facsimile.

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California Code of Regulations, Title 17, Section 59070 provides in pertinent part:

Facilities shall maintain a facility file which may include electronic formats, that includes at least the following:

- (a) Facility program plan;
- (b) Weekly staff schedules;
- (c) Personnel records including:
 - (1) Administrator current credentials, degrees, certificates
 - (2) Direct Care and Direct Care Lead Staff current credentials, degrees, certificates
 - (3) Qualified Behavior Modification Professional current credentials, degrees, certificates
 - (4) Documentation of completed staff training
 - (5) Hire and separation dates
- (d) Certificate of Program Approval as issued by the Department;
- (e) Regional center facility liaison monitoring;
- (f) Qualified Behavior Modification Professional monitoring;
- (g) Findings of immediate danger;
- (h) Substantial inadequacies;
- (i) Corrective action plans;
- (j) Sanctions; and
- (l) Facility appeals.

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Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530, 1531 and 1567.62, Health and Safety Code;
Sections 4684.81, 4684.82 and 4684.86, Welfare and Institutions Code.

Adopt Section 89901 to read:

89901 DEFINITIONS

89901

In addition to Sections 80001, 84001 and 85001, the following shall apply:

- (a) (1) "Assistant Behavior Analyst" means an individual who assesses the function of a behavior of a client and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the client's behavior through skill acquisition and the reduction of behavior, under supervision of a Behavior Analyst. Assistant Behavior Analysts engage in descriptive functional assessments to identify environmental factors of which behavior is a function. An Assistant Behavior Analyst is recognized by the national Behavior Analyst Certification Board as a Board Certified Assistant Behavior Analyst.
- (2) "Authorized Consumer Representative" shall have the same meaning as California Code of Regulations, Title 17, Section 59050(c). An Authorized Consumer Representative shall not have the same meaning as authorized representative as defined by Section 80001(a)(7).

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California Code of Regulations, Title 17, Section 59050 provides in pertinent part:

- (c) "Authorized Consumer Representative" means the parent, or guardian of a minor, conservator of an adult, or person who is legally entitled to act on behalf of the consumer.

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- (b) (1) "Behavior Analyst" means an individual who assesses the function of a behavior of a client and designs, implements, and evaluates instructional and environmental modifications to produce socially significant improvements in the client's behavior through skill acquisition and the reduction of behavior. Behavior Analysts engage in functional assessments or functional analyses to identify environmental factors of which behavior is a function. A Behavior Analyst is recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst.
- (c) (1) "Consultant" shall have the same meaning as the California Code of Regulations, Title 17, Section 59050(f).

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California Code of Regulations, Title 17, Section 59050 provides in pertinent part:

- (f) "Consultant" means an individual or group eligible for vendorization in accordance with Sections 54319 and 54342.

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- (2) "Client" shall be considered a "consumer" and shall have the same meaning as Health and Safety Code section 1567.61(a).

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Health and Safety Code section 1567.61 provides in pertinent part:

- (a) "Consumer" or "client" means an individual who has been determined by a regional center to meet the eligibility criteria of subdivision (a) of Section 4512 of the Welfare and Institutions Code and applicable regulations and for whom the regional center has accepted responsibility.

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- (d) (1) "Direct Care Staff" means facility staff who personally provide direct supervision and special services to clients, as defined in Title 17, Section 56002(a)(12). The term includes the licensee, the administrator, management, supervisory, and lead staff during that time when they are providing direct supervision and special services to clients.

- (A) Direct supervision and special services shall include "care and supervision" as defined in Title 22, California Code of Regulations, Section 80001(c)(3).

- (e) (1) "Enhanced Behavioral Supports Home" means a facility certified by the Department of Developmental Services pursuant to Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code, and licensed by the Department as an Adult Residential Facility or a Group Home that provides 24-hour nonmedical care to individuals with developmental disabilities who require enhanced behavioral supports, staffing, and supervision in a homelike setting. An Enhanced Behavioral Supports Home shall have a maximum capacity of four clients.

- (2) "Enhanced Behavioral Services and Supports" means additional staffing, supervision, and other services and supports to address a client's challenging behaviors, which are beyond what is typically available in other community living arrangements.

- (3) "Emergency Intervention Training" means an instructional curriculum provided to facility personnel regarding the techniques that may be used to prevent injury to, and maintain safety for, clients who are a danger to themselves or others, and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraints and seclusion in accordance with Health and Safety Code section 1567.64.

(f) through (h) (Reserved)

- (i) (1) "Individual Behavior Supports Plan" means the plan that identifies and documents the behavior and intensive support and service needs of a client and details the strategies to be employed and services to be provided to address those needs, and includes the entity responsible for providing those services and timelines for when each identified individual behavior support will commence.
- (2) "Individual Behavior Supports Team" means those individuals who contribute to the development, revision, and monitoring of the individual behavior supports plan for clients residing in an Enhanced Behavioral Supports Home in accordance with Health and Safety Code section 1567.61.

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California Code of Regulations, Title 17, Section 59050 provides in pertinent part:

- (q) The team shall, at a minimum, be composed of the following individuals:
- (1) Consumer and, where applicable, authorized consumer representative;
 - (2) Regional center service coordinator and other regional center representatives, as necessary;
 - (3) Licensee's qualified behavior modification professional;
 - (4) Enhanced Behavioral Supports Home administrator;
 - (5) Regional center clients' rights advocate, unless the consumer objects on his or her own behalf to participation by the clients' rights advocate.
 - (6) Any other individuals deemed necessary by the consumer, or, where applicable, his or her authorized consumer representative, if any, for developing a comprehensive and effective individual behavior supports plan.

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- (3) "Individual Emergency Intervention Plan" means a written plan addressing the prevention of injury and implementation of emergency intervention techniques by the licensee that will be used with a specific client, which are in addition to and are not prohibited by, the emergency intervention techniques set forth in the facility Emergency Intervention Plan. The plan shall be developed in consultation with a Qualified Behavior Modification Professional with input from the client and if available, someone whom he or she desires to provide input in accordance with Health and Safety Code section 1180.4(a). The plan shall include client-centered problem solving strategies that diffuse and safely resolve emerging crisis situations and strategies to minimize time spent in seclusion or behavioral restraints.
- (4) "Individual Program Plan" (IPP) shall have the same meaning as California Code of Regulations, Title 17, Section 59050.

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California Code of Regulations, Title 17, Section 59050 provides in pertinent part

- (r) "Individual Program Plan" (IPP) means a written plan that is developed by a regional center planning team, in accordance with the provisions of Sections 4646 and 4646.5 of Welfare and Institutions Code.

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(j) through (o) (Reserved)

- (p) (1) "Planning Team" shall have the same meaning as the California Code of Regulations, Title 17, Section 59050.

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California Code of Regulations, Title 17, Section 59050 provides in pertinent part

- (s) "Planning Team" refers to the planning team defined in subdivision (j) of Section 4512 of the Welfare and Institutions Code, which develops and reviews a consumer's IPP through the planning process described in Sections 4646 and 4646.5 of the Welfare and Institutions Code.

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- (q) (1) "Qualified Behavior Modification Professional" shall have a minimum two years of experience in designing, supervising, and implementing behavior modification services and be one of the following:

- (A) An Assistant Behavior Analyst certified by the national Behavior Analyst Certification Board as a Certified Assistant Behavior Analyst.
 - (B) A Behavior Analyst certified by the national Behavior Analyst Certification Board as a Certified Behavior Analyst;
 - (C) A Licensed Clinical Social Worker, pursuant to Business and Professions Code sections 4996-4998.5;
 - (D) A Licensed Marriage and Family Therapist, pursuant to Business and Professions Code sections 4980-4989;
 - (E) A psychologist, licensed by the Medical Board of California or Psychology Examining Board; or
 - (F) A licensed professional with California licensure, which permits the design of behavior modification intervention services.
- (r) (1) "Registered Behavior Technician" means an individual who is primarily responsible for the direct implementation of skill-acquisition and behavior-reduction plans, and practices under the close, ongoing supervision of a Behavior Analyst as defined in (b) or Assistant Behavior Analyst as defined in (a). The Registered Behavior Technician may also collect data and conduct certain types of assessments, but may not design intervention or assessment plans. A Registered Behavior Technician is recognized by the national Behavior Analyst Certification Board as a Board Certified Registered Behavior Technician.

(s) through (z) (Reserved)

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1567.61 and 1567.64, Health and Safety Code; Section 4684.80, Welfare and Institutions Code.

Adopt Chapter 11, Article 3, Section 89918 to read:

Article 3. APPLICATION PROCEDURES

89918 APPLICATION FOR LICENSURE

89918

In addition to Sections 80018, 84018 and 85018, the following shall apply:

- (a) An Enhanced Behavioral Supports Home shall not be licensed by the Department until the Certificate of Program Approval, granted by the Department of Developmental Services, has been received in accordance with Health and Safety Code section 1567.62.
- (b) An application for licensure, an Enhanced Behavioral Supports Home shall include a copy of the Department of Developmental Services' Certificate of Program Approval to the Department as required by the California Code of Regulations, Title 17, Section 59053.

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California Code of Regulations, Title 17, Section 59053 provides in pertinent part:

- (c) Upon approval by the Department, the Department shall issue a Certificate of Program Approval to the Enhanced Behavioral Supports Home and provide a copy of the Certificate of Program Approval to the regional center and the Department of Social Services.

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- (c) An Enhanced Behavioral Supports Home shall include a copy of the Department of Developmental Services' Certificate of Program Approval in the Plan of Operation pursuant to Section 89922(c).

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530, 1531 and 1567.62, Health and Safety Code.

Adopt Section 89920 to read:

89920 FIRE CLEARANCE

89920

- (a) An Enhanced Behavioral Supports Home shall meet the automatic fire sprinkler system requirements of the California Code of Regulations, Title 17, Section 59051(c).

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California Code of Regulations, Title 17, Section 59051 provides in pertinent part:

- (c) An Enhanced Behavioral Supports Home must have an operable automatic fire sprinkler system approved by the State Fire Marshal or local fire department as a condition of certification.
- (d) The automatic fire sprinkler system must meet the National Fire Protection Association (NFPA) 13D standard for the installation of sprinkler systems in single- and two-family dwellings and manufactured homes.

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Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530, and 1531, Health and Safety Code; Section 4684.86, Welfare and Institutions Code.

Adopt Section 89922 to read:

89922 PLAN OF OPERATION

89922

In addition to Sections 80022, 84022 and 85022, the following shall apply:

- (a) The license applicant shall submit a facility program plan to the Department of Developmental Services for approval and shall submit the approved plan to the Department of Social Services. The facility program plan shall be included in the plan of operation, which shall be approved by the Department of Social Services prior to licensure in accordance with Health and Safety Code section 1567.63.
- (b) The facility program plan shall fulfill the requirements of California Code of Regulations, Title 17, Section 59052.

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California Code of Regulations, Title 17, Section 59052 provides in pertinent part:

- (a) An applicant shall develop a facility program plan that includes the following:
 - (1) Number of consumers to be served;
 - (2) Consumer admission criteria and procedures;
 - (3) A description of how the facility will ensure that appropriate services and supports are provided at the time of admission to meet the consumer's immediate needs pending development of the individual behavioral supports plan;
 - (4) An organizational chart for the staff in the facility and, if applicable, for the organization;
 - (5) A description of consumer services to be provided;
 - (6) A description of how the licensee will ensure all direct care staff and consultants are competent to perform their assigned duties, including but not limited to:
 - (A) A description of the consultant disciplines, qualifications, and hours to be utilized;
 - (B) A description of staff qualifications and a duty statement for each staff position;

- (C) A sample staff schedule;
- (D) Staff training plan;
- (7) A description of the facility's emergency procedures, including but not limited to:
 - (A) The facility's emergency evacuation procedures, including procedures for evacuation when delayed egress and secure perimeters are in use pursuant to Sections 56068 through 56074;
 - (B) The type, location, and response time of emergency medical services;
 - (C) A description of how regularly scheduled fire and earthquake drills will be conducted on a schedule of no less than every three months, with the drills conducted on alternating work shifts so that drills are conducted during the day and evening hours;
- (8) An explanation of how the Enhanced Behavioral Supports Home will ensure the protection of consumers' personal rights, including those specified in Sections 50500-50550;
- (9) Consumer exit criteria; and
- (10) A description of the proposed facility, including size, layout, and location;
- (11) A description of the facility's Continuous Quality Improvement System, including but not limited to how:
 - (A) Consumers will be supported to make choices
 - (B) Consumers will be supported to exercise rights
 - (C) Changing needs of consumers will be addressed
 - (D) Consumers receive prompt and appropriate routine and specialized medical services
 - (E) Individual risk is managed and mitigated
 - (F) Medication is safely managed
 - (G) Staff turnover is mitigated

(12) Date and signature of the applicant

HANDBOOK ENDS HERE

- (c) An Enhanced Behavioral Supports Home shall include a copy of the Department of Developmental Services' Certificate of Program Approval in the Plan of Operation as required by the California Code of Regulations, Title 17, Section 59053.

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California Code of Regulations, Title 17, Section 59053 provides in pertinent part:

- (d) The Certificate of Program Approval must be included in the Plan of Operation submitted to the Department Social Services.

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- (d) A copy of the Facility Program Plan shall be included in the licensee's facility file pursuant to Section 89900(d).

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530, 1531 and 1567.63, Health and Safety Code; Section 4684.86, Welfare and Institutions Code.

Adopt Section 89940 to read:

89940 DENIAL OF INITIAL LICENSE

89940

In addition to Sections 80040 and 84040 the following shall apply:

- (a) An Enhanced Behavioral Supports Home shall be denied a license if the Department of Developmental Services' Certificate of Program Approval has not been submitted to the Department with the license application, in accordance with Health and Safety Code section 1567.62(b) and (c).

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Health and Safety Code section 1567.62 provides in pertinent part:

- (b) A certificate of program approval issued by the State Department of Developmental Services shall be a condition of licensure for the Enhanced Behavioral Supports Home by the State Department of Social Services.
- (c) An Enhanced Behavioral Supports Home shall not be licensed by the State Department of Social Services until the certificate of program approval, granted by the State Department of Developmental Services, has been received.

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Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530, 1531 and 1567.62, Health and Safety Code; Section 4684.86, Welfare and Institutions Code.

Adopt Chapter 11, Article 4, Section 89942 to read:

Article 4. ADMINISTRATIVE ACTIONS

89942 REVOCATION OR SUSPENSION OF A LICENSE

89942

In addition to Sections 80042 and 84142, the following shall apply:

- (a) The Department shall revoke the Enhanced Behavioral Supports Home's license when the Department of Developmental Services has decertified the Enhanced Behavioral Supports Home's Certificate of Program Approval, in accordance with Health and Safety Code section 1524(h) and 1567.67(a) and (b).

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Health and Safety Code section 1524 provides in pertinent part:

A license shall be forfeited by operation of law when one of the following occurs:

- (h) When the certification issued by the State Department of Developmental Services to a licensee of an enhanced behavioral supports home, licensed pursuant to Article 9.5 (commencing with Section 1567.61), is rescinded.

Health and Safety Code section 1567.67 provides in pertinent part:

- (a) The State Department of Social Services shall revoke the enhanced behavioral supports home's facility license if the State Department of Developmental Services has decertified an enhanced behavioral supports home program certification pursuant to Article 3.6 (commencing with Section 4684.80) of Chapter 6 of Division 4.5 of the Welfare and Institutions Code.
- (b) The State Department of Developmental Services and regional centers shall, for purposes of assisting in licensing, provide the State Department of Social Services with all available documentation and evidentiary support that was submitted to the State Department of Developmental Services in connection with certification by an applicant for licensure under this article.

California Code of Regulations, Title 17, Section 59051(b) provides in pertinent part:

- (b) The Department may decertify an Enhanced Behavioral Supports Home that is determines is not in compliance with applicable laws or when it cannot ensure the health and safety of consumers. The Department shall inform the Department of Social Services of any decision to decertify a facility on the same day.

HANDBOOK ENDS HERE

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1524(h), 1530, 1531 and 1567.67, Health and Safety Code; Section 4684.86, Welfare and Institutions Code.

Adopt Chapter 11, Article 6, Section 89964 to read:

Article 6. CONTINUING REQUIREMENTS

89964 ADMINISTRATOR CERTIFICATION AND QUALIFICATIONS 89964

In addition to Sections 80064, 84064 and 85064, the following shall apply:

- (a) An administrator for an Enhanced Behavioral Supports Home shall also meet the following qualifications, pursuant to the California Code of Regulations, Title 17, Section 59060:
 - (1) Have a minimum of 2 years of prior experience providing direct supervision to individuals with developmental disabilities; and be one of the following:
 - (2) A Registered Behavior Technician, or
 - (3) A licensed psychiatric technician, or
 - (4) A Qualified Behavior Modification Professional.

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code; Section 4684.86, Welfare and Institutions Code.

Adopt Section 89965 to read:

89965 PERSONNEL REQUIREMENTS

89965

In addition to Sections 80065, 84065 and 85065, the following shall apply:

- (a) The licensee shall ensure that each direct care lead staff person meets the following qualifications:
 - (1) Have one year prior experience providing direct care to individuals with developmental disabilities; and be one of the following:
 - (A) Become a Registered Behavior Technician within six months of initial employment, or
 - (B) Be a licensed psychiatric technician, or
 - (C) Be a Qualified Behavior Modification Professional.
- (b) The licensee shall ensure that each direct care staff person meets the following qualifications:
 - (1) Have six months prior experience providing direct care to individuals with developmental disabilities; and
 - (2) Become a Registered Behavior Technician within twelve (12) months of initial employment.
- (c) There shall be one direct care lead staff person and one direct care staff person on duty at all times when a client is under the supervision of the facility staff.
- (d) Direct care staff who have not completed the on-site training as required by California Code of Regulations, Title 17, Section 59063 shall be under the direct supervision and observation of a fully trained direct care lead staff person while caring for clients, and shall not be permitted to be alone with clients.
- (e) The facility administrator shall assign a qualified behavior modification professional to each client. Each client shall receive a minimum of 6 hours per month of direct time for behavior assessments and intervention methods by a qualified behavior modification professional. Time utilized will be documented in the client file.
- (f) Each Enhanced Behavioral Supports Home shall have an administrator on duty a minimum of 20 hours per week per facility to ensure the effective operation of the facility.

- (g) In addition to the hours required in subsection (e), the facility administrator shall ensure a provision of a minimum of 6 consultant hours per month per client, which shall be appropriate to meet individual client service needs.
- (h) In addition to any other required training, within the first 40 hours of employment, all direct care staff shall complete minimum of 32 hours of on-site orientation. The on-site orientation includes the training required pursuant to Sections 80065(f) and 84065(i) as applicable to the facility's licensure type, and shall also address the following:
- (1) The specialized needs of each of the clients;
 - (2) Clients' rights and protections pursuant to California Code of Regulations, Title 17, Sections 50500-50550 and Title 22 Sections as follows:
 - (A) Section 84072 for Enhanced Behavioral Supports Homes licensed as a Group Home.
 - (B) Sections 85072 and 80072 for Enhanced Behavioral Supports Homes licensed as an Adult Residential Facility.
 - (3) The facility's program plan;
 - (4) Implementation of the client's Individual Program Plan;
 - (5) Health and emergency procedures, including fire safety;
 - (6) The disaster and mass casualty plan required in Section 80023, including emergency evacuation and exit procedures when secured perimeters/delayed egress are in use.
- (i) In addition to any other required training, each direct care staff person shall have a minimum of 16 hours of emergency intervention training per Section 1567.64 of the Health and Safety Code, which shall include the techniques the licensee will use to prevent injury and maintain safety regarding clients who are a danger to self or others and shall emphasize positive behavioral supports and techniques that are alternatives to physical (manual) restraints, pursuant to the following:

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Health and Safety Code section 1567.64 provides:

The State Department of Social Services shall adopt regulations to address, at a minimum, staffing structure, staff qualifications, and training. Training requirements shall include a minimum of 16 hours of emergency intervention training. "Emergency intervention training" means the techniques the licensee will use to prevent injury to, and maintain safety for, consumers who are a danger to themselves

or others and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraints.

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- (1) Section 85365 for an Enhanced Behavioral Supports Home licensed as an Adult Residential Facility.
- (2) Section 84365 for an Enhanced Behavioral Supports Home licensed as a Group Home.
- (j) The licensee shall ensure that a direct care staff person shall not implement emergency intervention techniques until they successfully complete the emergency intervention training as required by the facility's applicable licensure type.
- (k) In addition to any other required training, prior to providing direct client care, the licensee shall ensure that each direct care staff person receive hands-on training in first aid and cardiopulmonary resuscitation.
 - (1) Direct care staff shall maintain current certifications in first aid and cardiopulmonary resuscitation. The administrator shall maintain the certifications in the facility personnel records.
- (l) In addition to any other required training, the licensee shall ensure that each direct care staff person complete the competency-based training prior to or within one year of employment at the Enhanced Behavioral Supports Home as required by the California Code of Regulations, Title 17, Section 59063(e).

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California Code of Regulations, Title 17, Section 59063 provides in pertinent part:

- (e) The administrator shall ensure that direct care staff shall complete the competency-based training required by Welfare and Institutions Code Section 4695.2 (a) and (d), pursuant to Section 56033 (b)-(g),(i). Direct Care Staff shall successfully complete both segments of the competency-based training and passage of the competency test, or pass the challenge test, prior to or within one year of employment at the Enhanced Behavioral Supports Home.

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- (m) In addition to any other required training, direct care staff shall complete a minimum of 20 hours of continuing education on an annual basis covering, but not limited to, the subjects specified in Section 89965(h):

- (1) For Enhanced Behavioral Supports Homes licensed as Group Homes, 10 of the continuing education hours required by Title 22, California Code of Regulations, Section 84065(j) shall count towards the hours required in Section 89965(h).
 - (2) Additional continuing education shall be required, as necessary, to ensure the continued health and safety of each client.
 - (3) Successful completion of the competency-based training and passage of the competency test required by the California Code of Regulations, Title 17, Section 59063(e) shall satisfy the direct care staff continuing education requirements specified in Sections 89965(m) through (m)(2) for the year in which the training is satisfactorily completed.
- (n) The licensee shall ensure that a direct care staff person renews the emergency intervention training annually.

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530, 1531 and 1567.64, Health and Safety Code;
Section 4684.6, Welfare and Institutions Code.

Adopt Section 89968.1 to read:

89968.1 INTAKE ADMISSION PROCEDURES

89968.1

In addition to 84168.1 and 85068.1, the following shall apply:

- (a) The licensee shall conduct and document an initial assessment of a client prior to admission to the facility.
 - (1) For an Enhanced Behavioral Supports Home licensed as an Adult Residential Facility, the initial assessment shall be developed pursuant to Section 85068.2(b)(1)(G).
 - (2) For an Enhanced Behavioral Supports Home licensed as a Group Home, the initial assessment shall be developed pursuant to Section 1180.4 of the Health and Safety Code.

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Health and Safety Code Section 1180.4 provides in pertinent part:

- (a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct an initial assessment of each person prior to placement decision or upon admission to the facility, or as soon thereafter as possible. This assessment shall include input from the person and from someone whom he or she desires to be present, such as a family member, significant other, or authorized representative designated by the person, and if the desired third party can be present at the time of admission. This assessment shall also include, based on the information available at the time of initial assessment, all of the following:
 - (1) A person's advance directive regarding de-escalation or the use of seclusion or behavioral restraints.
 - (2) Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.
 - (3) Techniques, methods, or tools that would help the person control his or her behavior.
 - (4) Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.

- (5) Any trauma history, including any history of sexual or physical abuse that the affected person feels is relevant.

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- (b) Without exception, within seven days of a client's admission, the licensee shall ensure a written Individual Behavior Supports Plan is completed.

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1180.4, 1501, 1502, 1530 and 1531, Health and Safety Code; Section 4684.86, Welfare and Institutions Code.

Adopt Section 89968.2 to read:

89968.2 NEEDS AND SERVICES PLAN

89968.2

In addition to Sections 80068.2, 84068.2 and 85068.2, the following shall apply:

- (a) The facility administrator is responsible for coordinating the development and subsequent updating of each client's Individual Behavior Supports Plan.
- (b) The licensee shall ensure each client's Individual Behavior Support Plan include all the requirements established in Title 17, Division 2, Chapter 3, Subchapter 24, Section 59054(d) and (e).

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California Code of Regulation, Title 17, Section 59054 provides in pertinent part:

- (d) The consumer's Individual Behavior Support Plan must be function-based, evidence-based, and target functionally equivalent replacement behaviors.
- (e) The Individual Behavior Supports Plan must include a description of the following:
 - (1) Baseline behaviors;
 - (2) Target Behaviors and Goals;
 - (3) Function of Behaviors;
 - (4) Desired Outcomes/Replacement Behaviors;
 - (5) Intervention Strategies, including antecedent strategies, instructional strategies and consequence strategies;
 - (6) Entity responsible;
 - (7) Environmental changes;
 - (8) Timelines/Review dates;
 - (9) Monitoring Progress/Evaluation methods; and
 - (10) Emergency strategies that may be necessary.

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- (c) The licensee of an Enhanced Behavioral Supports Home licensed as a Group Home shall develop an Individual Emergency Intervention Plan for the client.
- (1) The Individual Emergency Intervention Plan shall be based on the initial assessment as required in Section 89968.1(a)(2). In the event that the provisions of the Individual Emergency Intervention Plan are addressed in the Individual Behavior Supports Plan required by California Code of Regulations, Title 17, Section 59054, the licensee shall not be required to complete a separate or additional Individual Emergency Intervention Plan for the client.
- (d) Notwithstanding 85368.2(a), the licensee of an Enhanced Behavioral Supports Home licensed as an Adult Residential Facility shall develop an Individual Emergency Intervention Plan for the client.
- (1) The Individual Emergency Intervention Plan shall be based on the initial assessment as required in Section 89968.1(a)(2). In the event that the provisions of the Individual Emergency Intervention Plan are addressed in the Individual Behavior Supports Plan required by California Code of Regulations, Title 17, Section 59054, the licensee shall not be required to complete separate or additional Individual Emergency Intervention Plan for the client.

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code; Section 4684.83, Welfare and Institutions Code.

Adopt Section 89970 to read:

89970 CLIENT RECORDS

89970

In addition to Sections 80070, 84070 and 85070, the following shall apply:

- (a) The licensee shall ensure the client records include the following:
- (1) Medical assessment required in the California Code of Regulations, Title 17, Section 59056(a)(1);
 - (2) Individual Behavioral Supports Plan, updated as necessary;
 - (3) Individual Emergency Intervention Plan, updated as necessary, unless the Individual Behavioral Supports Plan meets the requirements of Section 89968.2(c)(1) or (d)(1);
 - (4) Emergency contact information;
 - (5) Current Individual Program Plan;
 - (6) Special incident reports, pursuant to the California Code of Regulations, Title 17, Section 54327;
 - (7) Data collection, including progress notes, professional/consultant visits, and interventions/outcomes; and
 - (8) Record of medications administered, including initials of staff providing assistance.

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code; Section 4684.86, Welfare and Institutions Code.

Adopt Chapter 11, Article 7, Section 89987 to read:

Article 7. PHYSICAL ENVIRONMENT

89987 BUILDINGS AND GROUNDS

89987

In addition to Sections 80087, 84087 and 85087, the following shall apply:

- (a) The licensee shall ensure each client has his or her own private bedroom as required by the California Code of Regulations, Title 17, Section 59051.

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California Code of Regulations, Title 17, Section 59051 provides in pertinent part:

- (e) Each consumer shall be provided with his or her own private bedroom.

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Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1501, 1502, 1530 and 1531, Health and Safety Code; Section 4684.86, Welfare and Institutions Code.

Adopt Chapter 11, Article 10, Section 89990 to read:

Article 10. EMERGENCY INTERVENTIONS

89990 PROVISIONS FOR EMERGENCY INTERVENTION 89990

- (a) An Enhanced Behavioral Supports Home licensed as an Adult Residential Facility shall be subject to the California Code of Regulations Title 22, Chapter 6, Subchapter 1 unless otherwise specified.
- (b) An Enhanced Behavioral Supports Home licensed as a Group Home shall not use manual restraint on a client unless and until an Emergency Intervention Plan has been developed by the licensee and approved by the Department pursuant to the California Code of Regulations, Title 22, Chapter 5, Subchapter 3.
- (c) If the Department determines that urgent action is necessary to protect a client residing in an Enhanced Behavioral Supports Home from physical or mental abuse, abandonment, or any other substantial threat to their health and safety, the Department shall notify the Department of Developmental Services in accordance with Health and Safety Code section 1567.65.

Authority cited: Sections 1530 and 1567.68, Health and Safety Code.

Reference: Sections 1180, 1501, 1531 and 1567.65, Health and Safety Code.