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**From:** Laurie Kleynen <LKleynen@ourexcentia.org>  
**Sent:** Friday, December 16, 2016 1:54 PM  
**To:** IRRC  
**Subject:** Comments on proposed regulatory change Department of Human Services 55.PA Code Chs. 51, 2380, 6100, 6400 and 6500  
**Attachments:** Blank Template Ch 2380.docx; Blank Template Ch 6100.docx; Blank Template Chapter 6400 - Community Homes for Individuals with an ID or Autism.docx; Blank Template Chapter 6500 - Family Living Life Sharing Homes.docx

2016 DEC 16 PM 2:19

Here are comments from Excentia on the proposed Department of Human Services regulatory changes. Thank you for the opportunity to submit our views.

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## Comments Template Chapter 2380

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**Citation:** 2380.17 Incident Report and Investigation

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**Discussion:** It appears that this section requires all incidents to be investigated.

**Recommendation:** Clarify what does and what does not have to be formally investigated.

**Citation:** 2380.33. Program specialist

**Discussion:** (a) need for clarity

**Recommendation:** (a) Replace with Program Specialist be responsible for no more than 30 individuals (in any capacity).

**Citation:** 2380.35. Staffing

**Discussion:** (b) allows for a 1:10 ratio when there is training or meetings instead of 1:6. Currently the requirement is 1:3.5 at all times.

**Recommendation:** Clarify that this regulation indeed replaces the current ratio requirements. The impact is a positive one for the provider.

**Citation:** 2380.38. Orientation program

**Discussion:** Before "working alone" is new. Does this mean that volunteers/interns, etc... can now work alone and be counted into the ratio?

**Recommendation:** Clarify that working alone is indeed the requirement and that it should not be before working at all. Clarify whether or not volunteers/interns can now be counted into ratio since they are required to also have training.

**Citation:** 2380.123 Medication Administration

**Discussion:** (g) medication must be stored in an organized fashion is not consistent with the departments current Medication Administration Course.

(i) Why point out how a self medicating person may bring their medications in to the facility. The regulations should focus on how the medications are permitted to be stored once in the facility.

**Recommendation:** (g) remove from regulations. (i) focus only on where/how medications are stored once in facility or out in community.

**Citation:** 2380.126 Medication Record

**Discussion:** (14) This is requiring additional information to be on the Medication Administration Record (MAR). Duration of treatment, for example is just another thing to include on an already very detailed form. Many medications are going to be ongoing, i.e. seizures meds or simply state under the advisement of the primary care physician.

(15) Again, requiring all this information to be on the medication record itself is very busy. Special precautions are part of the drug information requirement and there is not room on the Medication Record. (16) Side effects are also part of the drug information requirement and there is not room on Medication Record itself.

(16) (c) Making a regulation that requires refusals by the individual be reported to the prescriber is over-regulating and will create a difficult working relationship with physicians in general.

**Recommendation:** Make any additional requirements consistent with the Departments current Medication Administration Course to avoid inconsistencies and confusion.

**Citation:** 2380.129 Medication Administration

**Discussion:** (c) now requires that a person be certified in the department's Medication Administration Course to be able to administer an Epi-pen. The course only certifies and instructs in administering oral medications. There is a need for non-medication trained persons to administer Epi-pens, i.e. while in transit or at a volunteer/job site.

**Recommendation:** Make consistent with the current course and allow special instruction for things such as Epi-pen, tube feedings, nebulizers, etc.... and does not require that the person administering go through the medication administration course.

cc: ODP

**Comments**  
**Chapter 6400**  
**Community Homes for Individuals with an Intellectual Disability or**  
**Autism**

**Citation:**           **6400.18. [Reporting of unusual incidents.] Incident report and investigation**

**Discussion:** This whole section uses old terminology of “unusual incident” and is not consistent with the proposed 6100 regulations. Outbreak of a serious communicable disease reporting was recently removed from regulations, why put back in? (c) This restricts the 24 hour reporting requirement to only abuse, services of a fire department or law enforcement. (c) Terminology is old and talks about completing and sending copies of unusual incident forms. Terminology on page 175 regarding reportable incidents includes new categories of “exploitation” and “theft of individuals funds”

**Recommendation:** (a) Remove reference to term “unusual incident” and replace with “reportable incident”. Make this section consistent with Chapter 6100 regulations and the bulletin on Incident Management. Keep exploitation under Rights violation and misuse of funds as is and not separate out theft of funds.

**Citation:**           **6400.45. Staffing**

**Discussion:**       Why have ratio of 1:16 for sleeping hours?

**Recommendation:** If there are no settings with this type of ratio, do not include. It makes sense to make it 1:8 or 1:9 if that is the largest setting.

**Citation:**           **6400.50. Annual training plan**

**Discussion:** An annual training plan for each employee will require extensive resources in order to create and maintain.

**Recommendation:** Remove this requirement.

**Citation:**           **6400.197 — 6400.206.**

**Discussion:**

**Recommendation:** 199j should be moved from the chemical restraint section to either the medication section or with the Social Emotional Environmental Needs (SEEN) plan.

cc: ODP

# Comments Template

## Chapter 6100

**Citation:** 6100.3. Definitions

**Discussion:** This definition includes the terminology of “a natural person”.

**Recommendation:** Clarify what this means. Is it meant to say “unpaid” supports?

**Citation:** 6100.45. Quality management

**Discussion:** With the changes outlined in this section there will need to be a re-training of provider staff, the language used is new and difficult to understand. 45(b)(6) talks about an analysis of successful learning and application of training in relation to established core competencies, turnover rates by position and suspected cause.

**Recommendation:** The current Chapter 51 regulations regarding Quality Management are sufficient to measure quality. They are not too prescriptive and allow a provider to reasonably meet the expectations set forth.

**Citation:** 6100.50. Communication

**Discussion:** If the person designated by the Individual does not understand (read or write) English it may be cost prohibitive for a provider to have to provide written, oral and other forms of communication in a manner that is understood.

**Recommendation:**

Suggest changing the word “and” to “or” ... Written, oral and other forms of communication with the individual, **and** persons designated by the individual... Rewrite so that a Provider is expected to make reasonable accommodations, through interpreters, community resources, etc...

**Citation:** 6100.52. Rights team

**Discussion:** "Discover and resolve the reason for an individual's behavior" is a big job for a group of people the majority of whom don't provide direct support.

**Recommendation:** Why mandate a committee, including composition of that committee? The regulations should ensure that this happens by whatever mechanism the provider determines best, as long as documentation is kept for review. Current practices of having a Restrictive Procedures Committee, Risk Management Committee, and an Investigator's Committee already identifies trends, risks, gaps in quality care, etc... Adding a regulation which requires yet another committee would only add cost and administrative burden.

**Citation:** 6100.141. Annual training plan

**Discussion:** This is an additional requirement of providers in an environment of already overwhelming amounts of paperwork and keeping up with regulations. To develop an individualized annual training plan for each and every employee will be challenging to accomplish.

**Recommendation:** Allow providers to continue to have flexibility in the overall training component and remove the requirement of developing an annual training plan. Regulations 6100.141 and 6100.143 should be combined into one section.

**Citation:** 6100.142. Orientation program

**Discussion:** This change actually reads as if a new hire can begin working with individuals sooner, as long as they are not working alone. This is different than current regulations that require orientation happens BEFORE working with individuals.

**Recommendation:** Verify that this means those items required to be reviewed prior to stepping foot into the home/program now disappear and become prior to working alone with an individual.

**Citation:** 6100.143. Annual training

**Discussion:** Who qualifies as "program staff"? Does housekeeping staff who do not have "hands on" with any individual require training? 12 hours of training for staff

whom are not working directly with the individuals, i.e. – management, fiscal, maintenance is an additional expense for the provider when 12 hours of training may not actually be necessary.

**Recommendation:** Specify what the definition “program staff” is to the department . Contracted “housekeeping” persons should not be required to have training by regulation. Remove this requirement for non-direct/non-program personnel.

**Citation:**           **6100.183. Additional rights of the individual in a residential facility**

**Discussion:** More rights were added, which is noteworthy in a positive way, however there are circumstances that may not allow certain rights to be honored, i.e. “choose persons with whom to share a bedroom”.

**Recommendation:** (e) word so that an individual’s preference will be honored whenever possible. (f) add in conjunction with chosen housemates. Also, the words “within budget” need to be identified as to who sets that budget.

**Citation:**           **6100.221. Development of the PSP**

**Discussion:** (d) this is the responsibility of the Supports Coordinator in most cases, so why include in regulations for the Provider?

**Recommendation:** Remove or state that Providers may not serve an individual without a developed Person-Centered Supported Plan in advance.

**Citation:**           **6100.222. The PSP process**

**Discussion:**       Stating that the “Person-Centered Support Plan process shall be directed by the individual” is not enough.

**Recommendation:** This needs clarified that the individual (or those who have been identified as knowing them best) be the driving force behind the Person-Centered Support Plan.

**Citation:**           **6100.223. Content of the PSP**

**Discussion:** There is new terminology of “excluded, unnecessary or inappropriate supports”

**Recommendation:** Define what these are and how are they noted in the Person-Centered Support Plan.

**Citation:** 6100.225. Support coordination and TSM

**Discussion:**

**Recommendation:** Clarify if these regulations are only considered applicable when an Individual does not have a Supports Coordinator.

**Citation:** 6100.226. Documentation of support delivery

**Discussion:** (c) what is meant by support delivery each time a support is delivered?

**Recommendation:** Clarify if this means, personal care, working on goals, supplemental activities, safety, social interaction, what?

**Citation:** 6100.261. Access to the community

**Discussion:** This regulation contradicts the proposed service definition for community participation. This states that the provider will support the individual in the community as much as he/she desires. The service definition states he/she MUST be in the community for 75% of the time.

**Recommendation:** There should be incorporated choice and no mandate that requires and individual to be out in the community 75% of the time.

**Citation:** 6100.262. Employment

**Discussion:**

**Recommendation:** (d) this is an expectation of Supports Coordinator's and is not applicable during inspections of providers as long as there is an Supports Coordinator.

**Citation:** 6100.263. Education

**Discussion:**

**Recommendation:** Clarify how "access to a full range of options" will be measured.

**Citation:** 6100.301. Individual choice

**Discussion:**

**Recommendation:** Also an Supports Coordinator role as stated so why include?

**Citation:** 6100.303. Reasons for a transfer or a change in a provider

**Discussion:** What specific expectations are there for (c) "the same degree of community access and choice..."

**Recommendation:** Needs to be some clarity of how this will be measured.

**Citation:** 6100.304. Written notice

**Discussion:** There should be language that acknowledges that if both parties agree to the transition of services sooner than 30 days, that is permissible.

**Recommendation:** Clarify who exactly from the team provides notice. Allow an agreement of earlier than 30 days if both parties agree to that period of transitions of services.

**Citation:** 6100.341. Use of a positive intervention

**Discussion:** Good change of title from "Safe Behavior Management"

**Recommendation:**

**Citation:** 6100.342. PSP

**Discussion:** People do not have behaviors; they use behaviors to get what they want, don't want, etc...

**Recommendation:** Change wording to say the Individual uses a dangerous behavior...

**Citation:** 6100.343. Prohibition of restraints

**Discussion:** Title can be misleading to appear that no restraints are allowed, ever

**Recommendation:** Change title to "Prohibition of certain types of restraints."

**Citation:** 6100.401. Types of incidents and timelines for reporting

**Discussion:** The Department's Medication Administration course teaches that over the counter medications are not reportable. Providers already have a tremendous amount of reporting requirement placed upon them and medication errors are frequently the most reported category. To add over the counter medications to this list is adding one more layer and will require additional time and resources to the Provider.

**Recommendation:** Delete the inclusion of over the counter medications in the required medication error category.

**Citation:** 6100.402. Incident investigation

**Discussion:** Not all of the incidents listed here in 401(a) require investigation.

**Recommendation:** Change wording to a department certified incident investigator shall conduct an investigation of the incident list which require investigation.

**Citation:** 6100.405. Incident analysis

**Discussion:** This reads like each incident should be termed “confirmed”, “not confirmed” or “inconclusive” for all incidents, not just investigations. -Requiring Providers to get into formal root cause analysis will require additional training, time and additional resource in general.

**Recommendation:** -Clarify what is meant by “each confirmed incident”. Consider making the requirement that all providers analyze incidents as they happen, take appropriate corrective action to keep individuals safe and leave it at that.

**Citation:** 6100.443. Access to the bedroom and the home

**Discussion:** This regulation assumes that all individuals have the physical and/or cognitive ability to gain access to their home or bedroom and to give permission to others for entering.

**Recommendation:** Clarify that adherence to this regulation must be consistent with the assessed ability and desire of the individual. Clarify further that an individual's ability to lock their private bedroom cannot negate the provider's ability to get them in the event of an emergency (i.e.-no deadbolts).

**Citation:** 6100.445. Integration

**Discussion:** People without disabilities are not mandated to spend 75% of their time in the community. Does this apply to residential only or also to day programs?

**Recommendation:** Somewhere in the middle needs to be an expectation that an individual's dreams, desires and needs are honored. These can be honored in a variety of settings and should include their choice of involvement and activity level in the community.

**Citation:** 6100.447. Facility characteristics relating to location of facility

**Discussion:** What is the purpose of this regulation? It is confusing to state that a newly funded facility cannot look like any other human service residential facility.

**Recommendation:** Can the purpose be met by simply stating that facilities need to blend into the community and not identify segregation in any way?

**Citation:** 6100.463. Storage and disposal of medications

**Discussion:** This is different to current regulations which state there is a 1 hour window surrounding medication administration times. This regulation states that Insulin and Epi-pen do not have to be kept locked.

**Recommendation:** Keep consistent with current medication administration requirements and do not permit pre-pouring of medications. Insulin and Epi-pen are prescription medications therefore should be locked when in the home. To allow for quick access in case of emergency in the community, it makes sense that they be kept readily available in a non-locked, but secure fashion.

**Citation:** 6100.465. Prescription Medications

**Discussion:** (e) State law says: § 21.145. Functions of the Licensed Practical Nurse (LPN).

(2) The LPN may accept an oral order if the following conditions are met:

(i) The practitioner issuing the oral order is authorized by law and by facility policy to issue oral orders for medical and therapeutic measures.

(ii) The LPN has received instruction and training in accepting an oral order in an approved nursing education program or has received instruction and training in accepting an oral order in accordance with the established policies and protocols of the facility.

(iii) The policy of the facility permits an LPN to accept an oral order.

(iv) The regulations governing the facility permit an LPN to accept an oral order.

Many agencies cannot afford to hire Registered Nurses (RN) and LPN's can perform practically every task that an RN can perform under State law. Why would the department disallow LPN's to provide this service?

**Recommendation:** Include LPN's in the list of those allowed by law to accept verbal orders.

**Citation:** 6100.467. Medical errors

**Discussion:**

**Recommendation:** This should say Medication Errors, not medical errors.

**Citation:** 6100.742. Array of sanctions

**Discussion:** If these are not licensing regulations, the language should not be so focused on corrective action.

**Recommendation:** Change title to "Remediation."

cc: ODP

**Comments**  
**Chapter 6500**  
**Family Living Life Sharing Homes**

**Citation:**           **6500.20 Reporting of Unusual Incidents**

**Discussion:**       This is different than current regulations and it appears death has been omitted and outbreak of a serious communicable disease has been added back in. The reporting timeframes have been altered and have become more stringent.

**Recommendation:** Death needs to be added back in and outbreak of serious communicable disease taken out. Reporting timeframes should remain 24 hours for everything except restraint and medication errors, which should remain 72 hours.

**Citation:**           **6500.22 Incident Record**

**Discussion:**       (a) refers to "staff person". Shared Living Providers cannot be referred to as employees.

**Recommendation:** Change to Life Sharing Provider.

**Citation:**           **6500.43. Family (Life) Sharing Specialist**

**Discussion:** (e) (4) This now allows a person with a High School diploma or GED and 6 years of experience working directly with persons with an intellectual disability to be a Program Specialist. Why allow here, but not in 6400 regulations? This regulation allows a ratio of 1:16 for the Program Specialist, why differentiate for 6500 and 6400? It would make sense to make 6400 and 6500 the same for this requirement.

**Recommendation:** Make the regulations (6400 and 6500) mirror each other with this requirement. Given the difficulty finding quality staff to fulfill these roles who are willing to work for such low pay, the recommendation is to allow the High School diploma or GED. To better utilize resources it would be best to change 6500 to a 1:30 ratio for Program Specialist.

**Citation:** 6500.132 Medication Administration

**Discussion:** This also refers to "staff person" and Life Sharing Providers are not staff.

**Recommendation:** The terminology "staff person" needs to be changed to Life Sharing Provider.

**Citation:** 6500.139. Medication administration training

**Discussion:** Requiring Family Living Providers to go through the department's Medication Administration Course is too restrictive, time consuming and over-regulating. What is currently in place works well.

**Recommendation:** Continue to allow Family Living Providers to be trained in administering prescribed medications by the individual's health care provider (Primary Care Physician, Nurse). Taking the department's scripted course should be an option, but not a requirement.

cc: ODP