14-540 (191)

**Kroh, Karen** #3160

| | |
|---|---|
| **From:** | Mochon, Julie |
| **Sent:** | Tuesday, December 20, 2016 1:45 PM |
| **To:** | Kroh, Karen |
| **Subject:** | FW: Comments on Regulation No. 14 - 540 |
| **Attachments:** | 2380 Public Comments - Tyler Gehman.pdf; Cover Letter 2380 Comments - Tyler Gehman.pdf |

**From:** Tyler Gehman [mailto:tgehman@friendshipcommunity.net]
**Sent:** Tuesday, December 20, 2016 1:00 PM
**To:** Mochon, Julie <jmochon@pa.gov>
**Cc:** Norman Ressler <nressler@friendshipcommunity.net>; Joseph Birli <jbirli@friendshipcommunity.net>; Gwen Schuit <GSchuit@friendshipcommunity.net>
**Subject:** Comments on Regulation No. 14 - 540

Julie:

Attached please find my comments on Regulation No. 14 – 540 (PA 2380 Regulations section) which are currently open for public comment.

If you are unable to access the files attached or if you have any questions, feel free to contact me using my contact information below.

Thanks and have a great day.

*Tyler P. Gehman, MSW*
Program Specialist

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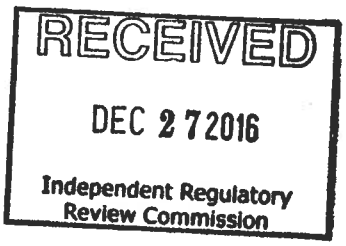

#3160

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Friendship COMMUNITY

December 20, 2016

Julie Mochon
Human Service Program Specialist Supervisor
Office of Developmental Programs
Room 502, Health and Welfare Building
625 Forster Street
Harrisburg, PA 17120

**Re: Comments on Regulation No. 14 – 540**

Dear Ms. Mochon:

Friendship Community wishes to submit the following comments and suggestions to the proposed rulemaking published by the Department of Human Services ("Department") on November 5, 2016. As a Provider of supports and services for Individuals with intellectual disabilities and/or autism, the regulations are of vital importance as we strive to assist Individuals to achieve meaningful community integration and to achieve greater independence consistent with their person centered support plans. Our comments and suggestions relate to individual regulations and include recommended adoption of text or deletion of text in order to further clarify our comments and suggestions.

In working with Individuals and their families over the past 44 years, it is our desire to provide thoughtful comments and suggestions, guided by the varied experiences throughout our Organization. We wish to advocate for regulations and policies that will best support Individuals, consistent with the principles contained in the "Everyday Lives" Office of Developmental Programs publication. This industry is dependent on a single payer system, therefore, the scope of regulatory oversight of service provision and the formulation of the criteria for continued licensure will have a definite effect on the economic viability of continued service provision. As a Provider of varied services, we request a rate setting process that reflects sustainability and predictability in order to align costs with payments consistent to support each consumer's mandated support plan.

The Notice of proposed rulemaking published on November 5, 2016 invites public comment and neither imposes nor references any conditions or limitations or restrictions on the format and wording of public comments. We understand that, in proposing and adopting regulations, the Department itself is subject to requirements relating to style, usage and format

(e.g., the use of "shall" as opposed to "will"). But, and as confirmed by the Independent Regulatory Review Commission, those style and format rules applicable to the Department do not constrain the style and format of public comments, which the Department must respond to if submitted within the comment period to the location identified in *The Pennsylvania Bulletin*.

We appreciate the opportunity to make public comments and suggestions regarding this vital change in regulations (which will replace Chapter 51 rulemaking) for Pennsylvania citizens supported by a trained and dedicated workforce that are in dire need of fair and competitive wages and benefits. We believe well written and supportive, general regulations will lead to a sustainable system for these most vulnerable Pennsylvania citizens, well into the future.

Sincerely,

Tyler P. Gehman

Tyler Gehman, Program Specialist
Friendship Community

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Comments on Chapter 2380 – Adult Training Facilities
Comments below:

- ~~Strikethrough – signifies suggested deletion~~
- Blue Text – signifies suggested addition
- Yellow Highlight – signifies discussions and comments

**Citation: § 2380.3. Definitions.**

**Discussion:**

**Recommendation:**

Definitions should be included in the broader 6100 definitions section. Only definitions specific to 2380 Adult Training Facilities should be included in this section.

Adult training facility – are individuals 60 years or older allowed to attend ATFs?

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

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

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

~~**[*Content discrepancy*—A difference between what was determined at the ISP meeting by the plan team and what is documented in the written ISP.]**~~

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

*Direct ~~service worker~~Support Professional*—A person whose primary job function is to provide services to an individual who attends the provider's facility.

~~[*Documentation*—Written statements that accurately record details, substantiate a claim or provide evidence of an event.]~~

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

~~[*ISP—Individual Support Plan*—The comprehensive document that identifies services and expected outcomes for an individual.]~~

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

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

(ii) A mental illness.

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

(iv) An intellectual disability.

(v) A traumatic brain injury.

~~[*Outcomes*—Goals the individual and individual's plan team choose for the individual to acquire, maintain or improve.~~

~~*Plan lead*—The program specialist or family living specialist, as applicable, when the individual is not receiving services through an SCO.~~

~~*Plan team*—The group that develops the ISP.]~~

***PSP*—Person-centered support plan.**

*Provider*—An entity or person that enters into an agreement with the Department to deliver a service to an individual.

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

*SC—Supports coordinator*—An SCO employee whose primary job functions are to locate, coordinate and monitor services provided to an individual when the individual is receiving services from an SCO.

*SCO—Supports coordination organization*—A provider that delivers the services of locating, coordinating and monitoring services provided to an individual.

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

***High-Risk behavior*—An action with a high likelihood of resulting in harm to the individual or others.**

***Positive intervention*—An action or activity intended to prevent, modify and eliminate a high-risk behavior. This includes improved communications, reinforcing appropriate behavior, an environmental change, recognizing and treating physical and behavioral health symptoms, voluntary physical exercise and other wellness practices, redirection, praise, modeling, conflict resolution and de-escalation.**

## GENERAL REQUIREMENTS

**Citation: § 2380.17. [~~Reporting of unusual incidents.~~] Incident report and investigation.**

**Discussion:**

**Recommendation:**

(a)12 - Emergency closure – clarify or add a definition of this to the definitions section above

~~**[(a) An unusual incident is:**~~

~~**(1) Abuse or suspected abuse of an individual.**~~

~~**(2) Injury, trauma or illness requiring inpatient hospitalization, that occurs while the individual is at the facility or under the supervision of the facility.**~~

~~**(3) A suicide attempt by an individual.**~~

~~**(4) A violation or alleged violation of an individual's rights.**~~

~~**(5) An individual whose absence is unaccounted for, and is therefore presumed to be at risk.**~~

~~(6) The misuse or alleged misuse of an individual's funds or property.~~

~~(7) An outbreak of a serious communicable disease, as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions) to the extent that confidentiality laws permit reporting.~~

~~(8) An incident requiring the services of a fire department or law enforcement agency.~~

~~(9) A condition, except for snow or ice conditions, that results in closure of the facility for more than 1 scheduled day of operation.~~

~~(b) Written policies and procedures on the prevention, reporting, investigation and management of unusual incidents shall be developed and kept at the facility.~~

~~(c) The facility shall orally notify, within 24 hours after abuse or suspected abuse of an individual or an incident requiring the services of a fire department or law enforcement agency occurs:~~

~~(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.~~

~~(2) The funding agency.~~

~~(3) The appropriate regional office of the Department.~~

~~(d) The facility shall initiate an investigation of the unusual incident and complete and send copies of an unusual incident report on a form specified by the Department, within 72 hours after an unusual incident occurs, to:~~

~~(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.~~

~~(2) The funding agency.~~

~~(3) The appropriate regional office of the Department.~~

~~(e) At the conclusion of the investigation the facility shall send a copy of the final unusual incident report to:~~

~~(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual involved in the unusual incident has mental illness or an intellectual disability.~~

~~(2) The funding agency.~~

~~(3) The appropriate regional office of the Department.~~

~~(f) A copy of unusual incident reports relating to an individual shall be kept in the individual's record.~~

~~(g) A copy of unusual incident reports relating to the facility itself, such as those requiring the services of a fire department, shall be kept.~~

~~(h) The individual's family, if appropriate, and the residential services provider, if applicable, shall be immediately notified in the event of an unusual incident relating to the individual.]~~

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

(1) Death.

(2) Suicide attempt.

(3) Inpatient admission to a hospital.

(4) Visit to an emergency room.

(5) Abuse.

(6) Neglect.

(7) Exploitation.

(8) ~~An individual who is missing for more than 24 hours or who could be in jeopardy if missing at all.~~Missing Individual

(9) Law enforcement activity.

(10) Injury requiring treatment beyond first aid.

(11) Fire requiring the services of the fire department.

(12) Emergency closure.

(13) Use of a restraint outside of parameters set in the PSP.

(14) Theft or misuse of individual funds.

(15) A violation of individual rights.

(b) The individual and the persons designated by the individual shall be notified immediately upon discovery of an incident relating to the individual.

(c) The ~~facility~~ provider shall keep documentation of the notification in subsection (b).

(d) The incident report, redacted to exclude information about another individual and the reporter, unless the reporter is the individual who receives the report, shall be available to the individual and persons designated by the individual, upon request.

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

(f) The ~~facility~~ provider shall initiate an investigation of an incident within 24 hours of discovery by a staff person.

(g) A Department-certified incident investigator shall conduct the incident investigation of the incident listed in subsection (a).

(h) The ~~facility~~ provider shall finalize the incident report in the Department's information management system or on a form specified by the Department within 30 days of discovery of the incident by a staff person.

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

(1) Additional detail about the incident.

(2) The results of the incident investigation.

(3) A description of the corrective action taken in response to an incident.

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

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

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

Citation: § 2380.18. [ ~~Reporting of deaths.~~ ] Incident procedures to protect the individual.

**Discussion:**

**Recommendation:**

~~[(a) The facility shall complete and send copies of a death report on a form specified by the Department, within 24 hours after a death of an individual that occurs at the facility or while under the supervision of the facility, to:~~

~~(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual had mental illness or an intellectual disability.~~

~~(2) The funding agency.~~

~~(3) The regional office of the Department.~~

~~(b) The facility shall investigate and orally notify, within 24 hours after an unusual or unexpected death occurs:~~

~~(1) The county mental health and intellectual disability program of the county in which the facility is located if the individual had mental illness or an intellectual disability.~~

~~(2) The funding agency.~~

~~(3) The regional office of the Department.~~

~~(c) A copy of death reports shall be kept in the individual's record.~~

~~(d) The individual's family, and the residential service provider, if applicable, shall be immediately notified in the event of a death of an individual.]~~

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

(1) Potential risks.

(2) Health care information.

(3) Medication history and current medication.

(4) Behavioral health history.

(5) Incident history.

(6) Social needs.

**(7) Environmental needs.**

**(8) Personal safety.**

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

**(c) The ~~facility~~ provider shall work cooperatively with the PSP team to revise the PSP if indicated by the incident investigation.**

Citation: § 2380.19. **[~~Record of incidents.~~] Incident analysis.**

**Discussion:**

**Recommendation:**

**~~[The facility shall maintain a record of an individual's illnesses, traumas and injuries requiring medical treatment but not inpatient hospitalization, and seizures that occur at the facility or while under the supervision of the facility.]~~**

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

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

**(2) Corrective action.**

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

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

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

**(1) The number of incidents.**

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

**(3) The likelihood of an incident recurring.**

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

**(e) The ~~facility~~ provider shall analyze incident data continuously and take actions to mitigate and manage risks.**

Citation: § 2380.21. **~~[Civil]~~ Individual** rights.

**Discussion:**

**Recommendation:**

(m) allowing an individual with IDD and/or cognitive limitations to accept risks places enormous liability on the provider.

~~[(a) An individual may not be discriminated against because of race, color, religious creed, disability, handicap, ancestry, national origin, age or sex.~~

~~(b) The facility shall develop and implement civil rights policies and procedures. Civil rights policies and procedures shall include the following:~~

~~(1) Nondiscrimination in the provision of services, admissions, placements, facility usage, referrals and communications with individuals who are nonverbal or non-English speaking.~~

~~(2) Physical accessibility and accommodation for individuals with physical disabilities.~~

~~(3) The opportunity to lodge civil rights complaints.~~

~~(4) Informing individuals on their right to register civil rights complaints.]~~

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

**(b) An individual shall be ~~continually~~ supported to exercise the individual's rights.**

**(c) An individual shall be provided the support and accommodation necessary to be able to understand and actively exercise the individual's rights to the extent that the individual is able to understand and actively exercise such rights.**

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

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

**(f) A court-appointed legal guardian may exercise rights and make decisions on behalf of an individual in accordance with a court order.**

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

(h) An individual has the right to designate persons to assist in decision making on behalf of the individual.

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

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

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

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

(m) An individual has the right to make informed choices and accept risks that do not pose a threat to the individual's and/or another person's health, safety, or well-being.

(n) An individual has the right to refuse to participate in activities and supports, including community, integration, and employment activities.

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

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

(q) An individual has the right to voice concerns about the supports the individual receives.

(r) An individual has the right to participate in the development and implementation of the PSP.

(s) An individual's rights shall be exercised so that another individual's rights or the rights of the provider are not violated.

(t) Choices shall be negotiated by the affected individuals in accordance with the ~~facility's~~ provider's procedures for the individuals to resolve differences and make choices.

**(u) The ~~facility~~ provider shall inform and explain individual rights to the individual, and persons designated by the individual, upon admission to the ~~facility~~ provider and annually thereafter.**

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

(*Editor's Note*: The following section is new and printed in regular type to enhance readability.)

**Citation: § 2380.26. Applicable laws and regulations.**

**Discussion:**

**Recommendation:**

The ~~facility~~ provider shall comply with applicable Federal, State and local laws, regulations and ordinances.

## STAFFING

**Citation: § 2380.33. Program specialist.**

**Discussion:**

**Recommendation:**

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

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

~~**[(1) Coordinating and completing assessments.**~~

~~**(2) Providing the assessment as required under: § 2380.181(f) (relating to assessment).**~~

~~**(3) Participating in the development of the ISP, including annual updates and revisions of the ISP.**~~

~~**(4) Attending the ISP meetings.**~~

~~(5) Fulfilling the role of plan lead, as applicable, under § 2380.182 and 2380.186(f) and (g) (relating to development, annual update and revision of the ISP; and ISP review and revision).~~

~~(6) Reviewing the ISP, annual updates and revisions under: § 2380.186 for content accuracy.~~

~~(7) Reporting content discrepancy to the SC or plan lead, as applicable, and plan team members.~~

~~(8) Implementing the ISP as written.~~

~~(9) Supervising, monitoring and evaluating services provided to the individual.~~

~~(10) Reviewing, signing and dating the monthly documentation of an individual's participation and progress toward outcomes.~~

~~(11) Reporting a change related to the individual's needs to the SC or plan lead, as applicable, and plan team members.~~

~~(12) Reviewing the ISP with the individual as required under § 2380.186.~~

~~(13) Documenting the review of the ISP as required under § 2380.186.~~

~~(14) Providing the documentation of the ISP review to the SC or plan lead, as applicable, and plan team members as required under § 2380.186(d).~~

~~(15) Informing plan team members of the option to decline the ISP Review documentation as required under § 2380.186(c).~~

~~(16) Recommending a revision to a service or outcome in the ISP as provided under § 2380.186(c)(4).~~

~~(17) Coordinating the services provided to an individual.~~

~~(18) Coordinating the training of direct service workers in the content of health and safety needs relevant to each individual.~~

~~(19) Developing and implementing provider services as required under § 2380.188 (relating to provider services).]~~

**(1) Coordinating the completion of assessments.**

**(2) Participating in the PSP process, PSP development, PSP team reviews and the implementation of the PSP in accordance with this chapter.**

**(3) ~~Providing and supervising~~Coordinating and facilitating activities for the individuals in accordance with the PSPs.**

**(4) Supporting the integration of individuals in the community, in accordance with the preferences of the individual.**

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

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

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

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

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

**Citation: § 2380.35. Staffing.**

**Discussion:**

**Recommendation:**

(c) minimum of two staff persons – this limits individuals with 1:1 staffing ratios as well as community integration staffing ratios

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

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

(c) A minimum of two staff persons shall be present with the individuals at all times, with exceptions for 1:1 staffing and community integration activities.

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

(e) The staff qualifications and staff ratio as specified in the **[~~ISP~~] PSP** shall be implemented as written, including when the staff ratio is greater than required under subsections (a), (b) and (c).

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

Citation: § 2380.36. **[~~Staff~~] Emergency** training.

**Discussion:**

**Recommendation:**

~~**[(a) The facility shall provide orientation for staff persons relevant to their responsibilities, the daily operation of the facility and policies and procedures of the facility before working with individuals or in their appointed positions.**~~

~~**(b) The chief executive officer shall have at least 24 hours of training relevant to human services or administration annually.**~~

~~**(c) Program specialists and direct service workers who are employed for more than 40 hours per month shall have at least 24 hours of training relevant to human services annually.**~~

~~**(d) Program specialists and direct service workers shall have training in the areas of services for people with disabilities and program planning and implementation, within 30 calendar days after the day of initial employment or within 12 months prior to initial employment.**~~

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

**[(f)] (b)** Program specialists and ~~direct service workers~~ Direct Support Professionals shall be trained annually by a fire safety expert in the training areas specified in subsection **[(f)] (a)**.

**[(g)] (c)** There shall be at least **[~~one~~] 1** staff person for every 18 individuals, with a minimum of **[~~two~~] 2** staff persons present at the facility at all times who have been trained by an individual certified as a trainer by a hospital or other recognized health care organization, in first aid, ~~Heimlich~~ abdominal thrust techniques and cardio-pulmonary resuscitation within the past year. If a staff person has formal certification

from a hospital or other recognized health care organization that is valid for more than 1 year, the training is acceptable for the length of time on the certification.

~~[(h) Records of orientation and training, including the training source, content, dates, length of training, copies of certificates received and staff persons attending, shall be kept.]~~

(*Editor's Note*: Sections 2380.37—2380.39 are new and printed in regular type to enhance readability.)

**Citation: § 2380.37. Annual training plan.**

**Discussion:**

**Recommendation:**

(a) The ~~facility~~ provider shall design an annual training plan based on the needs of the individuals as specified in the individuals' PSPs, other data and analysis indicating staff person training needs and as required under § 2380.39 (relating to annual training).

(b) The annual training plan must include the appropriate sections of the orientation program as specified in § 2380.38 (relating to orientation program).

(c) The annual training plan must include training aimed at improving the knowledge, skills and core competencies of the staff persons to be trained.

(d) The annual training plan must include the following:

(1) The title of the position to be trained.

(2) The required training courses, including training course hours, for each position.

**Citation: § 2380.38. Orientation program.**

**Discussion:**

**Recommendation:**

"(a) Prior to working alone with individuals" – this places undue burden on the provider – please describe an exception for an abbreviated orientation program or extension beyond 30 days.

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

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

(2) Dietary, housekeeping, maintenance and ancillary staff persons.

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

(4) Volunteers who will work alone with individuals.

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

(6) Consultants who will work alone with individuals.

(b) The orientation program must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. § 10225.701—10225.708), 23 Pa.C.S. § 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. § 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) ~~Job-related knowledge and skills~~.

**Citation: § 2380.39. Annual training.**

**Discussion:**

**Recommendation:**

(a) The following staff persons shall complete 24 hours of training each year:

(1) ~~Direct service workers~~Direct Support Professionals, including full-time and part-time staff persons.

(2) Direct supervisors of ~~direct service workers~~Direct Support Professionals.

(3) Positions required by this chapter.

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

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

(2) Dietary, housekeeping, maintenance and ancillary staff persons.

(3) Consultants who work alone with individuals.

(4) Volunteers who work alone with individuals.

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

(c) A minimum of 8 hours of the annual training hours specified in subsections (a) and (b) must encompass the following areas:

(1) The application of person-centered practices, including respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships.

(2) The prevention, detection and reporting of abuse, suspected abuse and alleged abuse in accordance with sections 701—708 of the Older Adults Protective Services Act (35 P.S. § 10225.701—10225.708), 23 Pa.C.S. § 6301—6386 (relating to Child Protective Services Law), the Adult Protective Services Act (35 P.S. § 10210.101—10210.704) and applicable protective services regulations.

(3) Individual rights.

(4) Recognizing and reporting incidents.

(5) The safe and appropriate use of positive interventions if the staff person will provide a support to an individual with a dangerous behavior.

(d) The balance of the annual training hours must be in areas identified by the ~~facility~~ provider in the ~~facility's~~ provider's annual training plan as required under§ 2380.37 (relating to annual training plan).

(e) All training, including those training courses identified in subsections (c) and (d), must be included in the provider's annual training plan.

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

(g) A training record for each person trained shall be kept.

**MEDICATIONS**

Citation: § 2380.121. **[ ~~Storage of medications.]~~ Self-administration.**

**Discussion:**

**Recommendation:**

~~**[(a) Prescription and nonprescription medications shall be kept in their original containers, except for medications of individuals who self-administer medications and keep their medications in personal daily or weekly dispensing containers.**~~

~~**(b) Prescription and nonprescription medications shall be kept in an area or container that is locked.**~~

~~**(c) Prescription medications stored in a refrigerator shall be kept in a separate locked container.**~~

~~**(d) Prescription and nonprescription medications shall be stored under proper conditions of sanitation, temperature, moisture and light.**~~

~~**(e) Discontinued prescription medications shall be returned to the individual's family or residential program for proper disposal.]**~~

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

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

**(c) The ~~facility~~ provider shall provide or arrange for assistive technology to support the individual's self-administration of medications.**

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

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

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

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

**(3) Know when the medication is to be taken. This knowledge may include reminders of the schedule and offering the medication at the prescribed times as specified in subsection (b).**

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

Citation: § 2380.122. **[~~Labeling of medications.~~] Medication administration.**

**Discussion:**

**Recommendation:**

~~**[(a) The original container for prescription medications shall be labeled with a pharmaceutical label that includes the individual's name, the name of the medication, the date the prescription was issued, the prescribed dose and the name of the prescribing physician.**~~

~~**(b) Nonprescription medications, except for medications of individuals who self-administer medications, shall be labeled with the original label.]**~~

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

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

**(1) A licensed physician, licensed dentist, licensed physician's assistant, registered nurse, certified registered nurse practitioner, licensed practical nurse or licensed paramedic.**

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

**(i) Oral medications.**

**(ii) Topical medications.**

**(iii) Eye, nose and ear drop medications.**

**(iv) Insulin injections.**

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

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

**(1) Identify the correct individual.**

**(2) Remove the medication from the original container.**

**(3) Crush or split the medication as ordered by the prescriber.**

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

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

**(6) Injection of insulin or epinephrine in accordance with this chapter.**

Citation: § 2380.123. **[~~Use of prescription medications.~~] Storage and disposal of medications.**

**Discussion:**

**Recommendation:**

**~~[(a) Prescription medications shall only be used by the individual for whom the medication was prescribed.~~**

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

**(a) Prescription and nonprescription medications shall be kept in their original labeled containers.**

**(b) A prescription medication may not be removed from its original labeled container more than 2 hours in advance of the scheduled administration.**

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

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

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

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

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

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

**(i) Subsections (a)—(d) and (f) do not apply for an individual who self-administers medication and stores the medication on his person or in the individual's private property, such as a purse or backpack.**

Citation: § 2380.124. **[~~Medication log.~~] Labeling of medications.**

**Discussion:**

**Recommendation:**

**~~[(a) A medication log listing the medications prescribed, dosage, time and date that prescription medications, including insulin, were administered, and the name of the person who administered the prescription medication or insulin shall be kept for each individual who does not self-administer medication.~~**

**~~(b) The information specified in subsection (a) shall be logged immediately after each individual's dose of medication.~~**

**~~(c) A list of prescription medications, the prescribed dosage, special instructions and the name of the prescribing physician shall be kept for each individual who self-administers medication.]~~**

**The original container for prescription medications must be labeled with a pharmacy label that includes the following:**

**(1) The individual's name.**

**(2) The name of the medication.**

**(3) The date the prescription was issued.**

**(4) The prescribed dosage and instructions for administration.**

**(5) The name and title of the prescriber.**

Citation: § 2380.125. **[ ~~Medication errors.~~ ] Prescription medications.**

**Discussion:**

**Recommendation:**

This section does not allow for faxed orders from an authorized prescriber.

**[~~Documentation of medication errors and follow-up action taken shall be kept.~~]**

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

**(b) A prescription order shall be kept current.**

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

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

**(e) Changes in medication may only be made in writing by the prescriber or, in the case of an emergency, an alternate prescriber, except for circumstances in which oral orders may be accepted by a registered nurse in accordance with regulations of the Department of State. The individual's medication record shall be updated as soon as a written notice of the change is received.**

Citation: § 2380.126. **[~~Adverse reaction.~~] Medication record.**

**Discussion:**

**Recommendation:**

**~~[If an individual has a suspected adverse reaction to a medication, the facility shall notify the prescribing physician and the family or residential program immediately. Documentation of adverse reactions shall be kept.]~~**

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

**(1) Individual's name.**

**(2) Name and title of the prescriber.**

**(3) Known Drug allergies.**

**(4) Name of medication.**

**(5) Strength of medication.**

**(6) Dosage form.**

**(7) Dose of medication.**

**(8) Route of administration.**

**(9) Frequency of administration.**

**(10) Administration times.**

**(11) Diagnosis or purpose for the medication, including pro re nata.**

**(12) Date and time of medication administration.**

**(13) Name and initials of the person administering the medication.**

**(14) Duration of treatment, if applicable.**

**(15) Special precautions, if applicable.**

**(16) Side effects of the medication, if applicable.**

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

**(c) If an individual refuses to take a prescribed medication, the refusal shall be documented on the medication record. The refusal shall be reported to the prescriber within 24 hours, unless otherwise instructed by the prescriber. Subsequent refusals to take a prescribed medication shall be reported as required by the prescriber.**

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

Citation: § 2380.127. **~~[Administration of medications.]~~ Medication errors.**

**Discussion:**

**Recommendation:**

~~[(a) Prescription medications and injections of a substance not self-administered by individuals shall be administered by one of the following:~~

~~(1) A licensed physician, licensed dentist, certified physician's assistant, registered nurse or licensed practical nurse.~~

~~(2) A graduate of an approved nursing program functioning under the direct supervision of a professional nurse who is present in the facility.~~

~~(3) A student nurse of an approved nursing program functioning under the direct supervision of a member of the nursing school faculty who is present in the facility.~~

~~(4) A staff person who meets the criteria in § 2380.128 (relating to medication administration training), for the administration of oral, topical and eye and ear drop prescription medications and insulin injections.~~

~~(b) Prescription medications and injections shall be administered according to the directions specified on the prescription.]~~

**(a) Medication errors include the following:**

**(1) Failure to administer a medication.**

**(2) Administration of the wrong medication.**

**(3) Administration of the wrong amount of medication.**

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

**(5) Administration to the wrong person.**

**(6) Administration through the wrong route.**

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

Citation: § 2380.128. **[~~Medication administration training.~~] Adverse reaction.**

**Discussion:**

**Recommendation:**

~~[(a) A staff person who has completed and passed the Department's Medications Administration Course is permitted to administer oral, topical and eye and ear drop prescription medications.~~

~~(b) A staff person who has completed and passed the Department's Medications Administration Course and who has completed and passed a diabetes patient education program within the past 12 months that meets the National Standards for Diabetes Patient Education Programs of the National Diabetes Advisory Board, 7550 Wisconsin Avenue, Bethesda, Maryland 20205, is permitted to administer insulin injections to an individual who is under the care of a licensed physician who is monitoring the diabetes.~~

~~(c) Medications administration training of staff persons shall be conducted by an instructor who has completed and passed the Medications Administration Course for trainers and is certified by the Department to train staff persons.~~

~~(d) A staff person who administers prescription medications or insulin injections to individuals shall complete the Medications Administration Course Practicum annually.~~

~~(e) Documentation of the dates and locations of medications administration training for trainers and staff persons and the annual practicum for staff persons shall be kept.]~~

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

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

Citation: § 2380.129. **[~~Self-administration of medications.~~] Medication administration training.**

**Discussion:**

**Recommendation:**

~~[(a) To be considered capable of self-administration of medications, an individual shall:~~

~~(1) Be able to recognize and distinguish the individual's own medication.~~

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

~~(3) Know when the medication is to be taken.~~

~~(b) Insulin that is self-administered by an individual shall be measured by the individual or by licensed or certified medical personnel.]~~

**(a) A staff person who has successfully completed a Department-approved medications administration course, including the course renewal requirements, may administer the following:**

**(1) Oral medications.**

**(2) Topical medications.**

**(3) Eye, nose and ear drop medications.**

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

**(1) The course specified in subsection (a).**

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

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

**(1) The course specified in subsection (a).**

**(2) Training relating to the use of an auto-injection epinephrine injection device provided by a licensed, registered or certified health care professional within the past 12 months.**

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

## [~~RESTRICTIVE PROCEDURES~~] POSITIVE INTERVENTION

Citation: § 2380.151. **[~~Definition of restrictive procedures.~~] Use of a positive intervention.**

**Discussion:**

**Recommendation:**

(c) these definitions should be moved to the definitions section at the front of the 2380 regulations

'dangerous' behavior – using 'high-risk' behavior is a more positive way of defining these types of behaviors

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

~~(1) Limits an individual's movement, activity or function.~~

~~(2) Interferes with an individual's ability to acquire positive reinforcement.~~

~~(3) Results in the loss of objects or activities that an individual values.~~

~~(4) Requires an individual to engage in a behavior that the individual would not engage in given freedom of choice.]~~

**(a) A positive intervention shall be used to prevent, modify and eliminate a dangerous behavior when the behavior is anticipated or occurring.**

**(b) The least intrusive method shall be applied when addressing a dangerous behavior. For each incidence of a dangerous behavior, every attempt shall be made to modify and eliminate the behavior.**

**(c) As used in this section, the following words and terms have the following meanings, unless the context clearly indicates otherwise:**

***~~Dangerous~~ High-Risk behavior*—An action with a high likelihood of resulting in harm to the individual or others.**

***Positive intervention*—An action or activity intended to prevent, modify and eliminate a ~~dangerous~~ high-risk behavior. This includes improved communications, reinforcing appropriate behavior, an environmental change, recognizing and treating physical and behavioral health symptoms, voluntary physical exercise and other wellness practices, redirection, praise, modeling, conflict resolution and de-escalation.**

Citation: § 2380.152. **[~~Written policy.~~] PSP – Person-Centered Support Plan.**

**Discussion:**

**Recommendation:**

~~[A written policy that defines the prohibition or use of specific types of restrictive procedures, describes the circumstances in which restrictive procedures may be used, the persons who may authorize the use of restrictive procedures, a mechanism to monitor and control the use of restrictive procedures and a process for the individual and family to review the use of restrictive procedures shall be kept at the facility.]~~

**If the individual has a ~~dangerous~~ high-risk behavior as identified in the PSP, the PSP must include the following:**

**(1) The specific ~~dangerous~~ high-risk behavior to be addressed.**

**(2) A functional analysis of the ~~dangerous~~ high-risk behavior and the plan to address the reason for the behavior.**

**(3) The outcome desired.**

**(4) A description of the positive intervention aimed at preventing, modifying or eliminating the ~~dangerous~~ high-risk behavior and the circumstances under which the intervention is to be used.**

**(5) A target date to achieve the outcome.**

**(6) Health conditions that require special attention.**

Citation: § 2380.153. **[~~Appropriate use of restrictive procedures.~~] Prohibition of restraints.**

**Discussion:**

**Recommendation:**

**~~[(a) A restrictive procedure may not be used as retribution, for the convenience of staff persons, as a substitute for a program or in a way that interferes with the individual's developmental program.~~**

**~~(b) For each incident requiring a restrictive procedure:~~**

**~~(1) Every attempt shall be made to anticipate and de-escalate the behavior using methods of intervention less intrusive than a restrictive procedure.~~**

**~~(2) A restrictive procedure may not be used unless less restrictive techniques and resources appropriate to the behavior have been tried but have failed.~~]**

**The following procedures are prohibited:**

**(1) Seclusion, defined as involuntary confinement of an individual in a room or area from which the individual is physically prevented or verbally directed from leaving.**

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

**(3) Pressure point techniques, defined as the application of pain for the purpose of achieving compliance.**

**(4) A chemical restraint, defined as use of drugs or chemicals for the specific and exclusive purpose of controlling acute or episodic aggressive behavior. A chemical restraint does not include a drug ordered by a health care practitioner or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as pretreatment prior to a medical or dental examination or treatment.**

**(5) A mechanical restraint, defined as a device that restricts the movement or function of an individual or portion of an individual's body. Mechanical restraints include a geriatric chair, handcuffs, anklets, wristlets, camisole, helmet with fasteners, muffs and mitts with fasteners, restraint vest, waist strap, head strap, papoose board, restraining sheet, chest restraint and other locked restraints.**

**(i) The term does not include a device prescribed by a health care practitioner that is used to provide post-surgical care, proper balance or support for the achievement of functional body position.**

**(ii) The term does not include a device prescribed by a health care practitioner to protect the individual in the event of a seizure, as long as the individual can easily remove the device.**

**(6) A manual restraint, defined as a hands-on physical method that restricts, immobilizes or reduces an individual's ability to move his arms, legs, head or other body parts freely, on a nonemergency basis, or for more than 15 minutes within a 2-hour period. A manual restraint does not include physically prompting, escorting or guiding an individual to provide a support as specified in the individual's PSP.**

**(7) A prone position manual restraint.**

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

Citation: § 2380.154. **[~~Restrictive procedure review committee.~~] Permitted interventions.**

**Discussion:**

**Recommendation:**

**~~[(a) If a restrictive procedure is used, there shall be a restrictive procedure review committee.~~**

~~(b) The restrictive procedure review committee shall include a majority of persons who do not provide direct services to the individual.~~

~~(c) The restrictive procedure review committee shall establish a time frame for review and revision of the restrictive procedure plan, not to exceed 6 months between reviews.~~

~~(d) A written record of the meetings and activities of the restrictive procedure review committee shall be kept.]~~

**(a) Voluntary exclusion, defined as an individual voluntarily removing himself/herself from his/her immediate environment and placing himself/herself alone to a room or area, is permitted in accordance with the individual's PSP.**

**(b) A physical protective restraint may be used only in accordance with § 2380.153(6)—(8) (relating to prohibition of restraints).**

**(c) A physical protective restraint may not be used until § 2380.39(c)(5) and 2380.185(9) (relating to annual training; and content of the PSP) are met.**

**(d) A physical protective restraint may only be used in the case of an emergency to prevent an individual from injuring the individual's self or others, or unless otherwise specified in the individual's PSP.**

**(e) A physical protective restraint may not be used as a behavioral intervention, consequence, retribution, punishment, for the convenience of staff persons or as a substitution for individual support.**

**(f) A physical protective restraint may not be used for more than 15 minutes within a 2-hour period, unless otherwise specified in the individual's PSP.**

**(g) A physical protective restraint may only be used by a staff person who is trained as specified in § 2380.39.**

**(h) As used in this section, a "physical protective restraint" is a hands-on hold of an individual.**

Citation: § 2380.155. **[~~Restrictive procedure plan.~~] Access to or the use of an individual's personal property.**

**Discussion:**

| **Recommendation:** |
|---|

~~[(a) For each individual for whom restrictive procedures may be used, a restrictive procedure plan shall be written prior to the use of restrictive procedures.~~

~~(b) The restrictive procedure plan shall be developed and revised with the participation of the program specialist, the individual's direct care staff, the interdisciplinary team, as appropriate, and other professionals, as appropriate.~~

~~(c) The restrictive procedure plan shall be reviewed, and revised if necessary, according to the time frame established by the restrictive procedure review committee, not to exceed 6 months.~~

~~(d) The restrictive procedure plan shall be reviewed, approved, signed and dated by the chairperson of the restrictive procedure review committee and the program specialist, prior to the use of a restrictive procedure, whenever the restrictive procedure plan is revised and at least every 6 months.~~

~~(e) The restrictive procedure plan shall include:~~

~~(1) The specific behavior to be addressed and the suspected antecedent or reason for the behavior.~~

~~(2) The single behavioral outcome desired, stated in measurable terms.~~

~~(3) Methods for modifying or eliminating the behavior, such as changes in the individual's physical and social environment, changes in the individual's routine, improving communications, teaching skills and reinforcing appropriate behavior.~~

~~(4) Types of restrictive procedures that may be used and the circumstances under which the procedures may be used.~~

~~(5) A target date for achieving the outcome.~~

~~(6) The amount of time the restrictive procedure may be applied, not to exceed the maximum time periods specified in this chapter.~~

~~(7) Physical problems that require special attention during the use of the restrictive procedure.~~

~~(8) The name of the staff person or staff position responsible for monitoring and documenting progress with the plan.~~

~~(f) The restrictive procedure plan shall be implemented as written.~~

~~(g) Copies of the restrictive procedure plan shall be kept in the individual's record.]~~

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

**(b) An individual's personal funds or property may not be used as payment for damages unless the individual consents to make restitution for the damages as follows:**

**(1) A separate written consent by the individual is required for each incidence of restitution.**

**(2) Consent shall be obtained in the presence of the individual, a person designated by the individual or the Court and in the presence of and with the support of the support coordinator or targeted support manager.**

**(3) There may not be coercion in obtaining the consent of an individual.**

**(4) The ~~facility~~ provider shall keep a copy of the individual's written consent.**

Citation: § 2380.156. **[~~Staff training~~.] Rights team.**

**Discussion:**

**Recommendation:**

(a) 'rights team' is a very vague statement – please provide clarification

~~**[(a) If a restrictive procedure is used, at least one staff person shall be available when the restrictive procedure is used who has completed training within the past 12 months in the use of and ethics of using restrictive procedures including the use of alternate positive approaches.**~~

~~**(b) A staff person responsible for developing, implementing or managing a restrictive procedure plan shall be trained in the use of the specific techniques or procedures that are used.**~~

~~**(c) If manual restraint or exclusion is used, the staff person responsible for developing, implementing or managing a restrictive procedure plan shall have experienced the use of the specific techniques or procedures directly on themselves.**~~

~~**(d) Documentation of the training program provided, including the staff persons trained, dates of the training, description of the training and the training source, shall be kept.]**~~

**(a) The ~~facility~~ provider shall have a rights team. The ~~facility~~ provider may use a county mental health and intellectual disability program rights team that meets the requirements of this section.**

**(b) The role of the rights team is to:**

**(1) Review each incident, alleged incident and suspected incident of a violation of individual rights as specified in § 2380.21 (relating to individual rights).**

**(2) Review each incidence of the use of a restraint to:**

**(i) Analyze systemic concerns.**

**(ii) Design positive supports as an alternative to the use of a restraint.**

**(iii) Discover and resolve the reason for an individual's behavior.**

**(c) Members of the rights team shall include the affected individual, persons designated by the individual, a family member or an advocate if the individual is unable to speak for himself, a Court-appointed guardian or representative, the individual's support coordinator, a representative from the funding agency if applicable and a ~~facility~~ provider representative.**

**(d) Members of the rights team shall be comprised of a majority who do not provide direct support to the individual.**

**(e) If a restraint was used, the individual's health care practitioner shall be consulted.**

**(f) The rights team shall meet at least once every ~~3~~ 6 months.**

**(g) The rights team shall report its recommendations to the individual's PSP team.**

**(h) The ~~facility~~ provider shall keep documentation of the rights team meetings and the decisions made at the meetings.**

(*Editor's Note*: As part of this proposed rulemaking, the Department is proposing to rescind § 2380.157—2380.165 which appear in 55 Pa. Code pages 2380-37—2380-40, serial pages (352107)—(352110).)

**§ 2380.157—2380.165. (Reserved).**

**Discussion:**

**Recommendation:**

## RECORDS

**Citation: § 2380.173. Content of records.**

**Discussion:**

**Recommendation:**

Each individual's record must include the following information, unless the individual chooses not to provide the following information:

(1) Personal information including:

(i) The name, sex, admission date, ~~birthdate~~birth date and **[~~social security~~] Social Security** number.

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

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

(iv) Religious affiliation.

(v) A ~~current,~~ dated photograph, taken within 5 years.

(2) **[~~Unusual incident~~] Incident** reports related to the individual.

(3) Physical examinations.

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

~~**[(5) A copy of the invitation to:**~~

~~**(i) The initial ISP meeting.**~~

~~**(ii) The annual update meeting.**~~

~~**(iii) The ISP revision meeting.**~~

~~**(6) A copy of the signature sheet for:**~~

~~**(i) The initial ISP meeting.**~~

~~**(ii) The annual update meeting.**~~

~~**(iii) The ISP revision meeting.**~~

~~(7) A copy of the current ISP.~~

~~(8) Documentation of ISP reviews and revisions under § 2380.186 (relating to ISP review and revision), including the following:~~

~~(i) ISP review signature sheets.~~

~~(ii) Recommendations to revise the ISP.~~

~~(iii) ISP revisions.~~

~~(iv) Notices that the plan team member may decline the ISP review documentation.~~

~~(v) Requests from plan team members to not receive the ISP review documentation.~~

~~(9) Content discrepancies in the ISP, the annual update or revision under § 2380.186.]~~

**(5) PSP documents as required by this chapter.**

~~[(10) Restrictive procedure protocols and~~] **(6) Positive intervention** records related to the individual.

**[(~~11~~)] (7)** Copies of psychological evaluations, if applicable.

**PROGRAM**

**Citation: § 2380.181. Assessment.**

**Discussion:**

**Recommendation:**

* * * * *

(b) If the program specialist is making a recommendation to revise a service or outcome in the **[~~ISP as provided under § 2380.186(c)(4) (relating to ISP review and revision)~~] PSP**, the individual shall have an assessment completed as required under this section.

* * * * *

(f) The program specialist shall provide the assessment to the SC **[~~or plan lead~~]**, as applicable, and **[~~plan~~] PSP** team members at least ~~30~~ 14calendar days prior to **[~~an ISP~~**

~~meeting for the development, annual update and revision of the ISP under § 2380.182, 2390.152, 6400.182 and 6500.152 (relating to development, annual update and revision of the ISP)]~~ a PSP meeting.

Citation: § 2380.182. Development~~[, annual update and revision of the ISP]~~ of the PSP.

**Discussion:**

**Recommendation:**

~~[(a) An individual shall have one ISP.~~

~~(b) When an individual is not receiving services through an SCO and does not reside in a home licensed under Chapter 6400 or 6500 (relating to community homes for individuals with an intellectual disability; and family living homes), the adult training facility program specialist shall be the plan lead when one of the following applies:~~

~~(1) The individual attends a facility licensed under this chapter.~~

~~(2) The individual attends a facility licensed under this chapter and a facility licensed under Chapter 2390 (relating to vocational facilities).~~

~~(c) The plan lead shall be responsible for developing and implementing the ISP, including annual updates and revisions.~~

~~(d) The plan lead shall develop, update and revise the ISP according to the following:~~

~~(1) The ISP shall be initially developed, updated annually and revised based upon the individual's current assessment as required under § 2380.181, 2390.151, 6400.181 and 6500.151 (relating to assessment).~~

~~(2) The initial ISP shall be developed within 90 calendar days after the individual's admission date to the facility.~~

~~(3) The ISP, annual updates and revisions shall be documented on the Department-designated form located in the Home and Community Services Information System (HCSIS) and also on the Department's web site.~~

~~(4) An invitation shall be sent to plan team members at least 30 calendar days prior to an ISP meeting.~~

~~(5) Copies of the ISP, including annual updates and revisions under§ 2380.186 (relating to ISP review and revision), shall be provided as required under § 2380.187 (relating to copies).]~~

**(a) An individual shall have one approved and authorized PSP at a given time.**

**(b) An individual's service implementation plan must be consistent with the PSP in subsection (a).**

**(c) The support coordinator, ~~targeted support manager or program specialist~~ shall coordinate the development of the PSP, including revisions, in cooperation with the individual and the individual's PSP team.**

**(d) The initial PSP shall be developed based on the individual assessment within 60 days of the individual's date of admission to the ~~facility~~provider.**

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

**(f) The individual~~,~~ and persons designated by the individual~~,~~ shall be involved in and supported in the development and revisions of the PSP.**

**(g) The PSP, including revisions, shall be documented on a form specified by the Department.**

Citation: § 2380.183. **[ ~~Content of the ISP.]~~ The PSP team.**

**Discussion:**

**Recommendation:**

~~[The ISP, including annual updates and revisions under § 2380.186 (relating to ISP review and revision), must include the following:~~

~~(1) Services provided to the individual and expected outcomes chosen by the individual and individual's plan team.~~

~~(2) Services provided to the individual to increase community involvement, including work opportunities as required under § 2380.188 (relating to provider services).~~

~~(3) Current status in relation to an outcome and method of evaluation used to determine progress toward that expected outcome.~~

~~(4) A protocol and schedule outlining specified periods of time for the individual to be without direct supervision, if the individual's current assessment~~

~~states the individual may be without direct supervision and if the individual's ISP includes an expected outcome which requires the achievement of a higher level of independence. The protocol must include the current level of independence and the method of evaluation used to determine progress toward the expected outcome to achieve the higher level of independence.~~

~~(5) A protocol to address the social, emotional and environmental needs of the individual, if medication has been prescribed to treat symptoms of a diagnosed psychiatric illness.~~

~~(6) A protocol to eliminate the use of restrictive procedures, if restrictive procedures are utilized, and to address the underlying causes of the behavior which led to the use of restrictive procedures including the following:~~

~~(i) An assessment to determine the causes or antecedents of the behavior.~~

~~(ii) A protocol for addressing the underlying causes or antecedents of the behavior.~~

~~(iii) The method and timeline for eliminating the use of restrictive procedures.~~

~~(iv) A protocol for intervention or redirection without utilizing restrictive procedures.~~

~~(7) Assessment of the individual's potential to advance in the following:~~

~~(i) Vocational programming.~~

~~(ii) Community involvement.~~

~~(iii) Competitive community-integrated employment.]~~

(a) The PSP shall be developed by an interdisciplinary team including the following:

(1) The individual.

(2) Persons designated by the individual or appointed by the Court.

(3) The individual's ~~direct care staff persons~~Direct Support Professionals.

(4) The program specialist.

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

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

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

**(c) Members of the PSP team who attend the meeting shall sign and date the PSP.**

Citation: § 2380.184. ~~[Plan team participation.]~~ **The PSP process.**

**Discussion:**

**Recommendation:**

~~[(a) The plan team shall participate in the development of the ISP, including the annual updates and revisions under § 2380.186 (relating to ISP review and revision).~~

~~(1) A plan team must include as its members the following:~~

~~(i) The individual.~~

~~(ii) A program specialist or family living specialist, as applicable, from each provider delivering a service to the individual.~~

~~(iii) A direct service worker who works with the individual from each provider delivering a service to the individual.~~

~~(iv) Any other person the individual chooses to invite.~~

~~(2) If the following have a role in the individual's life, the plan team may also include as its members, as applicable, the following:~~

~~(i) Medical, nursing, behavior management, speech, occupational or physical therapy specialists.~~

~~(ii) Additional direct service workers who work with the individual from each provider delivering services to the individual.~~

~~(iii) The individual's parent, guardian or advocate.~~

~~(b) At least three plan team members, in addition to the individual, if the individual chooses to attend, shall be present for an ISP, annual update and ISP revision meeting.~~

~~(c) A plan team member who attends a meeting under subsection (b) shall sign and date the signature sheet.]~~

**The PSP process shall:**

**(1) Provide necessary information and support to ensure that the individual directs the PSP process to the maximum extent possible.**

**(2) Enable the individual to make informed choices and decisions, if the individual so chooses.**

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

**(4) Be timely in relation to the needs of the individual and occur at intervals, times and locations of choice and convenience to the individual and to persons designated by the individual.**

**(5) Be communicated in clear and understandable language.**

**(6) Reflect the cultural considerations ~~of the~~ chosen by the individual.**

~~(7) Include guidelines for solving disagreements among the PSP team members.~~

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

Citation: § 2380.185. **[~~Implementation of the ISP.~~] Content of the PSP.**

**Discussion:**

**Recommendation:**

~~[(a) The ISP shall be implemented by the ISP'S start date.~~

~~(b) The ISP shall be implemented as written.]~~

**The PSP, including revisions, must include the following:**

**(1) The individual's strengths and functional abilities.**

**(2) The individual's individualized clinical and support needs.**

**(3) The individual's goals and preferences related to relationships, community participation, employment, income and savings, health care, wellness and education.**

**(4) Individually identified, person-centered desired outcomes.**

**(5) Supports to assist the individual to achieve desired outcomes.**

**(6) The type, amount, duration and frequency for the support specified in a manner that reflects the assessed needs and choices of the individual. The schedule of support delivery shall be determined by the PSP team.**

**(7) Communication mode, abilities and needs.**

**(8) Opportunities for new or continued community participation.**

**(9) Risk factors, ~~dangerous~~ high-risk behaviors and risk mitigation strategies, if applicable.**

**(10) Modification of individual rights as necessary to mitigate risks, if applicable.**

**(11) Health care information, including a health care history.**

**(12) Financial information including how the individual chooses to use personal funds.**

**(13) The person responsible for monitoring the implementation of the PSP.**

Citation: § 2380.186. **[~~ISP review and revision.~~] Implementation of the PSP.**

**Discussion:**

**Recommendation:**

~~**[(a) The program specialist shall complete an ISP review of the services and expected outcomes in the ISP specific to the facility licensed under this chapter with the individual every 3 months or more frequently if the individual's needs change which impact the services as specified in the current ISP.**~~

~~**(b) The program specialist and individual shall sign and date the ISP review signature sheet upon review of the ISP.**~~

~~**(c) The ISP review must include the following:**~~

~~(1) A review of the monthly documentation of an individual's participation and progress during the prior 3 months toward ISP outcomes supported by services provided by the facility licensed under this chapter.~~

~~(2) A review of each section of the ISP specific to the facility licensed under this chapter.~~

~~(3) The program specialist shall document a change in the individual's needs, if applicable.~~

~~(4) The program specialist shall make a recommendation regarding the following, if applicable:~~

~~(i) The deletion of an outcome or service to support the achievement of an outcome which is no longer appropriate or has been completed.~~

~~(ii) The addition of an outcome or service to support the achievement of an outcome.~~

~~(iii) The modification of an outcome or service to support the achievement of an outcome in which no progress has been made.~~

~~(5) If making a recommendation to revise a service or outcome in the ISP, the program specialist shall complete a revised assessment as required under § 2380.181(b) (relating to assessment).~~

~~(d) The program specialist shall provide the ISP review documentation, including recommendations, if applicable, to the SC or plan lead, as applicable, and plan team members within 30 calendar days after the ISP review meeting.~~

~~(e) The program specialist shall notify the plan team members of the option to decline the ISP review documentation.~~

~~(f) If a recommendation for a revision to a service or outcome in the ISP is made, the plan lead as applicable, under § 2380.182(b) and (c), 2390.152(b) and (c), 6400.182(b) and (c), 6500.152(b) and (c) (relating to development, annual update and revision of the ISP), shall send an invitation for an ISP revision meeting to the plan team members within 30 calendar days of receipt of the recommendation.~~

~~(g) A revised service or outcome in the ISP shall be implemented by the start date in the ISP as written.]~~

~~The facility shall implement the PSP, including revisions.~~**The supports coordinator shall oversee the implementation of the PSP, including revisions.**

Citation: § 2380.187. **[~~Copies.~~] (Reserved).**

**Discussion:**

**Recommendation:**

~~[A copy of the ISP, including the signature sheet, shall be provided to plan team members within 30 calendar days after the ISP annual update and ISP revision meetings.]~~

Citation: § 2380.188. **[ ~~Provider services.~~] (Reserved).**

**Discussion:**

**Recommendation:**

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

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

~~(c) The facility shall provide services to the individual as specified in the individual's ISP.~~

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