3160

14-540-296

Kroh, Karen

From: Mochon, Julie
Sent: Wednesday, December 21, 2016 8:52 AM
To: Kroh, Karen
Subject: FW: Reference Regulation No. 14-540: Chapter 6400 Proposed Regulations
Attachments: Mochon ODP 6400 Regs Cover Letter_RMG_122016.docx; 2016 1205 PRELIMINARY 6400 PAR_Combined Comments 122016.docx

From: Rita Gardner [mailto:rgardner@melmarkne.org]
Sent: Tuesday, December 20, 2016 5:03 PM
To: Mochon, Julie
Cc: Karen Mattox; Karen Parenti; Thaler, Nancy
Subject: Reference Regulation No. 14-540: Chapter 6400 Proposed Regulations

Ms. Mochon,

Attached please find the proposed regulations for Chapter 6400 with our comments incorporated. We appreciate the opportunity to submit these written comments to you.

Thank you,

Rita

Rita M. Gardner, M.P.H., LABA, BCBA
President and CEO

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"We make a living by what we get, we make a life by what we give." - Sir Winston Churchill

Melmark

Pennsylvania

December 20, 2016

Ms. Julie Mochon
Human Service Program Specialist Supervisor
Office of Developmental Programs, Rm. 502
625 Forster Street, Harrisburg, PA 17120

Subject: Comments on Regulation No. 14-540

Dear Ms. Mochon:

I have reviewed the proposed regulations and am concerned their implementation could adversely impact the ability of providers across the Commonwealth to continue to provide quality services in an economically feasible manor. Melmark currently serves over 200 consumers who will be affected by these regulations.

I participated in PAR's review process and fully endorse PAR's comments and additional proposed regulation edits enclosed. I believe PAR's version add value by clarifying ambiguous areas, removing inconsistent language, and reducing unnecessarily burdensome rules. I encourage the Department to adopt PAR's regulation edits in full.

I would also ask for additional considerations for review in addition to comments submitted to PAR: 6400 and 2380 Restrictive Procedures/Positive Interventions (section 2380.151)

Justification

The use of reinforcement to increase desired behaviors (behaviors that have been identified by the interdisciplinary team, including the individual, as important for that individual's success in all environments) is well documented through scientific research. With the individuals we serve often we start supporting behavioral change with a positive reinforcement strategy that are supported through contingencies, but often as the individuals gain skills and develop positive behaviors there are reinforced with naturally occurring contingencies in their social environments. Currently, the use of reinforcement contingent on a certain behavior has been considered restrictive with 6400 and 23800 regulations, regardless of the type of reinforcement being delivered. The requirement to put all contingent positive reinforcement interventions through a restrictive procedures committee prior to implementation has prolonged a provider's ability to affect behavior change in a timely manner. The prolonged time in between when a procedure is identified, approved by a committee, and then put into use prevents an individual from making progress as quickly as he/she could, which presents providers with an ethical

dilemma. The use of contingent reinforcement should have parameters in place in which certain forms of contingent reinforcement do not require prior approval from a restrictive procedures committee.

These parameters are outlined below.

- Reinforcement for a desired behavior (behaviors targeted for increase in an person's ISP/PSP) can be provided when that reinforcement is not already a part of the person's existing environment. This includes access to behavior specific praise/attention, access to a desired tangible item that the person does not currently have access to, and any other item identified as a reinforcer for that person that does not exist in that person's every day environment. This should also include negative reinforcement and the termination of an undesired activity/event contingent on the display of a desired behavior as outlined in the person's ISP/PSP (i.e. – termination of a non-preferred activity contingent the display of a desired behavior, most often in the form of functional communication). Restricted access to items available in the person's everyday environment should continue to be reviewed by a restrictive procedures committee prior to any implementation to affect positive behavior change (i.e. phone, TV, participation in a prescheduled activity, or any other item/activity a person has a right to on a daily basis).

- Differential reinforcement of alternative behavior can be used without prior approval from a restrictive procedures committee when the reinforcement delivered contingent on the desired alternative behavior is not already a part of the person's existing environment.

- Differential reinforcement of incompatible behavior can be used without prior approval from a restrictive procedures committee when the reinforcement delivered contingent on an identified incompatible behavior to the challenging behavior is not already a part of the person's existing environment.

Please let me know if further clarification is required or if you need anything else. Thanks for the opportunity to comment.

Sincerely,

Rita M. Gardner

Rita M. Gardner, M.P.H., LABA, BCBA
President and CEO

RMG:vaw

Melmark-

CHAPTER 6400. COMMUNITY HOMES FOR INDIVIDUALS WITH AN INTELLECTUAL DISABILITY OR AUTISM

GENERAL PROVISIONS

§ 6400.1. Introduction.

This chapter is based on the principle of integration and the right of the individual with an intellectual disability **or autism** to live a life which is as close as possible in all aspects to the life which any member of the community might choose. For the individual with an intellectual disability **or autism** who requires a residential service, the design of the service ~~shall be~~ is made with the individual's unique needs in mind so that the service ~~will~~ can facilitate the person's ongoing growth and development.

Discussion 6400.1.

§ 6400.2. Purpose.

~~The purpose of this~~ This chapter sets forth the minimum requirements that govern ~~is to protect the health, safety and well-being of individuals with an intellectual disability or autism, through the formulation, implementation and enforcement of minimum requirements for~~ the operation of community homes for individuals with an intellectual disability **or autism**.

Discussion 6400.2.

§ 6400.3. Applicability.

(a) This chapter applies to community homes for individuals with an intellectual disability **or autism**, except as provided in subsection (f).

(b) This chapter contains the minimum requirements that ~~shall~~ must be met to obtain a certificate of compliance. A certificate of compliance ~~shall~~ must be obtained prior to operation of a community home for individuals with an intellectual disability **or autism**.

(c) This chapter applies to profit, nonprofit, publicly funded and privately funded homes.

(d) The Department will inspect each home serving nine or more individuals ~~shall be inspected by the Department each~~ every year. Every home must have an ~~and shall have an~~ individual certificate of compliance specific ~~for each building~~ to the home.

(e) ~~Each~~ When an agency operat~~ing~~es one or more homes serving eight or fewer individuals, ~~shall have at least~~ the Department will conduct a sample of ~~it's the~~ agency's homes ~~inspected by the Department~~ each year. The certificate of compliance issued to an agency ~~shall~~ will specify the location and maximum capacity of each home the agency is permitted to operate.

(f) This chapter does not apply to the following entities:

(1) Private homes of persons providing care to a relative with an intellectual disability **or autism**.

(2) Residential facilities operated by the Department.

(3) Intermediate care facilities for individuals with an intellectual disability licensed by the Department in accordance with Chapter 6600 (relating to intermediate care facilities for individuals with an intellectual disability) **or intermediate care facilities for individuals with other related conditions**.

(4) Foster family care homes licensed by the Office of Children, Youth and Families of the Department that serve only foster care children.

(5) Summer camps.

(6) Facilities serving exclusively personal care home, drug and alcohol, mental health or domiciliary care residents.

(7) Residential homes for three or fewer people with an intellectual disability **or autism** who are 18 years of age or older and who need a yearly average of 30 hours or less direct staff contact per week per home.

(8) Child residential facilities which serve exclusively children, which are regulated under Chapter 3800 (relating to child residential and day treatment facilities).

(g) This chapter does not measure or assure compliance with other applicable Federal, State and local statutes, regulations, codes and ordinances. It is the responsibility of the home to comply with other applicable laws, regulations, codes and ordinances.

Discussion 6400.3.

§ 6400.4. Definitions.

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

Adult—A person 18 years of age or older.

Adult Autism Waiver - An HCBS Federal waiver program approved under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) and designed to provide community-based supports to meet the specific needs of adults with autism spectrum disorders

Agency—A person or legally constituted organization operating one or more community homes for people with an intellectual disability **or autism** serving eight or fewer individuals.

Aversive Conditioning - The application of startling, painful or noxious stimuli in response to the exhibition of behavior in an effort to modify the behavior.

~~***Autism*—A developmental disorder defined by the edition of the *Diagnostic and Statistical Manual of Mental Disorders*, or its successor, in effect at the time the diagnosis is made. The term includes autistic disorder, Asperger's disorder and autism spectrum disorder.***~~

Autism spectrum disorder (ASD) - A developmental disorder defined and diagnosed in accordance with criteria established in the Diagnostic and Statistical Manual latest edition in effect at time of diagnosis.

Base-funded services: A service funded exclusively by a grant to a county under the Mental Health and Intellectual Disability Act of 1966 or Article XIV-B of the Human Services Code.

Based-funded support coordination - A program designed to provide community-based support to locate, coordinate and monitor needed support for individuals who receive support through base-funding.

Chemical restraint - 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 prescribed by a health care practitioner or dentist to treat the symptoms of a specific mental, emotional or behavioral condition, or as treatment prior to or following a medical or dental examination or treatment.

*Community home for individuals with an intellectual disability **or autism** (home)*—A building or separate dwelling unit in which residential care is provided to one or more individuals with an intellectual disability **or autism**, except as provided in § 6400.3(f) (relating to applicability). Each apartment unit within an apartment building is considered a separate home. Each part of a duplex, if there is physical separation between the living areas, is considered a separate home.

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

Corrective action plan - a document prepared by a provider following a written determination by the Department of non-compliance with a provision(s) of this Chapter. The plan establishes timelines, person(s) responsible for the implementation and monitoring of corrective action steps.

Dangerous behavior – A decision, behavior or action by an individual that creates or is highly likely to result in harm or to place the individual and/or other persons at risk of harm.

Department—The Department of Human Services of the Commonwealth.

Dignity of risk - Respecting an individual's expression of self-determination, even when it may adversely impact his/her health, safety, or well-being.

Direct ~~service~~ support worker—A person whose ~~primary~~ principal 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.~~]

Exclusion – when an individual voluntarily or willingly removes himself/herself from his/her immediate environment and places himself/herself alone in a room or an area.

Family—the person or people who are related to or determined by the individual as family, including guardians and other caregivers with a legal right to take part in the decision-making process about medical, financial and other needs.

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.

HCBS—Home and community-based support—An activity, service, assistance or product provided to an individual that is funded through a Federally-approved waiver program or the Medical Assistance State Plan.

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

Incident - A situation or occurrence that has a high likelihood of a negative impact on an individual.

Individual—An ~~individual~~ adult or child who received a home and community-based intellectual disability or autism support or base-funded services. ~~with an intellectual disability or autism who resides, or receives residential respite care, in a home and who is not a relative of the owner of the home.~~

~~*Intellectual disability* – Subaverage general intellectual functioning which originates during the developmental period and is associated with impairment of one or more of the following:~~

~~(i) Maturation.~~

~~(ii) Learning.~~

~~(iii) Social adjustment.~~

Individual—An adult or child who receives a home and community-based intellectual disability or autism support or base-funded services.

Mechanical restraint - 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. A mechanical restraint does not include:

Jim's note: Is there a chance we could exclude adaptive furniture here? I find it odd that we can utilize a 7 person supine restraint in which the person is immobilized but it is unclear if we could use adaptive furniture in which the person can freely move their arms and legs, but cannot ambulate. Even a helmet with fasteners seems like a more logical choice than restraint.

We do not need a waiver for restraint, but we do for some of these seemingly less restrictive alternatives that help keep our clients safe and provide a greater degree of movement than restraint.

If they need to be classified as mechanical restraints, then perhaps individual organizations could have the ability to use them under certain parameters, such as through our restrictive procedures committee.

(i) A device prescribed by a health care practitioner that is used to provide pre/post-surgical/medical care, proper balance or support for the achievement of functional body position.

(ii) A device prescribed by a health care practitioner to protect the individual in the event of a seizure.

Natural support—An activity or assistance that is provided by family, friends, or other community members without expectation of payment

Non-conformity - Failure to conform to or meet the expectations outlined within this chapter.

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

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

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

~~*PSP—Person-centered support plan.*~~ Person-Centered Support Plan (PSP): The comprehensive plan for each individual that is developed using a person-centered process and includes HCBS, risks and mitigation of risks, and individual outcomes for a participant.

Physical restraint - A physical (manual) hands-on technique that lasts longer than 30 consecutive seconds and restricts, immobilizes, or reduces an individual's ability to move his/her arms, legs, head, or other body parts freely.

Positive interventions - actions or activities intended to prevent, modify, decrease or eliminate challenging behaviors. These interventions or positive behavior supports include, but are not limited to: environmental adaptations or modifications, identifying and addressing physical and behavioral health symptoms, voluntary physical exercise, health and wellness practices, redirection, praise, modeling, conflict resolution, trauma informed care, de-escalation, and reinforcing desired behavior (contingent and non-contingent rewards).

Pressure point techniques - The application of pain for the purpose of achieving compliance. This technique does not include utilization as a method of intervention from approved physical management techniques in response to aggressive behavior, such as bite release. Jim's note: If this includes placing pressure on the jaw hinge I think that should be stated here to reduce ambiguity. That is a technique but we also have a less restrictive Safety Care bite release.

Provider~~—An entity or person that enters into an agreement with the Department to deliver a service to an individual.~~ The person, entity or organization that is authorized to deliver services under the Medical Assistance Program.

Relative—A parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half brother, half sister, aunt, uncle, niece or nephew.

***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.

Seclusion - Involuntary confinement of an individual alone in a room or area from which the individual is physically prevented from leaving.

Services~~—Actions or assistance provided to the individual to support the achievement of an outcome.~~ An activity, assistance or product provided to an individual that is funded through a federally approved waiver program, the State plan, or base funding. A service includes HCBS,

supports coordination, targeted support management, agency with choice, an organized health care delivery system, vendor goods and services, base-funding service, uncles specifically exempted otherwise within this chapter.

State plan—The Commonwealth's approved Title XIX State Plan.

Support coordination - an HCBS Federal waiver program under section 1915(c) of the Social Security Act (42 U.S.C.A. § 1396n(c)) designed to provide community-based support to locate, coordinate and monitor needed HCBS and other support for individuals.

Vendor - A directly-enrolled provider that sells goods or services to the general public, as well as to an HCBS program.

Volunteer - A person who works without compensation and under the supervision of an authorized provider or family member alone with an individual in the performance of a service

Discussion 6400.4.

All definitions for these regulations should be included in Chapter 6400., and the definitions should be the same across Chapter 6100 and all licensing regulations. Definitions should be consistent and clear with the intent to facilitate communication and understanding. Deleting definitions from the program regulations and including them within Chapter 6100 and the licensing regulations promotes clarity, consistency, and reduces administrative burden across applicable services and programs.

GENERAL REQUIREMENTS

§ 6400.15. Self-assessment of homes.

(a) The agency shall complete a self-assessment of each home the agency operates serving eight or fewer individuals, within 3 to 6 months prior to the expiration date of the agency's certificate of compliance, to measure and record compliance with this chapter.

(b) The agency shall use the Department's licensing inspection instrument for the community homes for individuals with an intellectual disability **or autism** regulations to measure and record compliance.

(c) A copy of the agency's self-assessment results and a written summary of corrections made shall be kept by the agency for at least 1 year.

Discussion 6400.15.

§ 6400.18. [~~Reporting of unusual incidents.~~] Incident report and investigation.

[~~(a) An unusual incident is abuse or suspected abuse of an individual; injury, trauma or illness of an individual requiring inpatient hospitalization; suicide attempt by an individual; violation or alleged violation of an individual's rights; an individual who is missing for more than 24 hours or who could be in jeopardy if missing at all; alleged misuse or misuse of individual funds or property; outbreak of a serious communicable disease as defined in 28 Pa. Code § 27.2 (relating to specific identified reportable diseases, infections and conditions); an incident requiring the services of a fire department or law enforcement agency; and any condition that results in closure of the home for more than 1 day.~~

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

~~(c) The home shall orally notify the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department, 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.~~

~~(d) The home 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 to the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department, within 72 hours after an unusual incident occurs.~~

~~(e) The home shall send a copy of the final unusual incident report to the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department at the conclusion of the investigation.~~

~~(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 home itself, such as those requiring the services of a fire department, shall be kept.~~

~~(h) The individual's family or guardian shall be immediately notified in the event of an unusual incident relating to the individual, if appropriate.~~]

(a) ~~The~~ A provider ~~shall~~ will report the following incidents, ~~and~~ and alleged incidents ~~and suspected incidents~~ through the Department's information management system within 24 hours of ~~discovery by a staff person~~ having knowledge of the incident:

(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.~~ An individual if missing for more than 24 hours or if the individual is in immediate jeopardy if missing for any period of time.

(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 an inappropriate or unnecessary restraint.

(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.~~ A home will report the following incidents in the Department's information management system within 72 hours of the occurrence or discovery of the incident:

(1) A medication administration error.

(2) Use of a restraint outside the parameters of the PSP. Jessica's note: This would potentially require a unique and duplicative document for children's services. Would also emphasize challenges of this potentially being in a state-supported electronic system for which we do not have access (like the ISP currently)

(c) ~~The home shall keep documentation of the notification in subsection (a).~~ The individual and person(s) designated by the individual shall be notified upon discovery of an incident related to the individual.

(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 home shall take immediate action to protect the health, safety and well-being of the individual following the initial knowledge or ~~notice~~ identification of an incident, alleged incident and/or suspected incident.

(f) The home ~~shall~~ will initiate an investigation of ~~an incident certain~~ specific incidents listed below~~incidents~~ within 24 hours of the occurrence or discovery by a staff person: ~~of the incident of the following~~:

(1) Death
(2) Abuse
(3) Neglect
(4) Exploitation
(5) Missing person
(6) Theft or misuse of individual funds
(7) Violations of individuals rights
(8) Unauthorized or inappropriate use of a restraint
(9) Rights violation
(10) Individual to individual sexual abuse and serious injury

(g) ~~A Department-certified incident investigator shall conduct the incident investigation of the incident listed in subsection (a).~~ The incident investigation will be objective and thorough and conducted by a Department-certified incident ~~instructor~~investigator.

(h) The home ~~shall~~ will 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.~~ by including additional information about the incident, results of a required investigation and corrective actions taken within 30 days of the occurrence or discovery of the incident unless an extension is filed.

(i) ~~The~~ A home ~~shall~~ will provide the following information to the Department as part of the final incident report:

(1) Any known additional detail about the incident.

(2) The results of the incident investigation.

(3) A description of the corrective action(s) taken or planned in response to ~~an~~ the incident as necessary.

(4) Additional action(s) 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.

Discussion 6400.18.

§ 6400.19. [~~Reporting of deaths.~~] Incident procedures to protect the individual.

[~~(a) The home shall complete and send copies of a death report on a form specified by the Department to the county intellectual disability program of the county in which the home is located, the funding agency and the regional office of the Department, within 24 hours after a death of an individual occurs.~~

~~(b) The home shall investigate and orally notify the county intellectual disability program of the county in which the home is located, the funding agency and the appropriate regional office of the Department within 24 hours after an unusual or unexpected death occurs.~~

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

~~(d) The individual's family or guardian shall be immediately notified in the event of a death of an individual.~~]

(a) ~~In investigating an incident, the home shall review and consider the following needs of the affected individual:~~ In reviewing a serious incident, or pattern of incidents, a home will review and consider the following needs of the affected individual(s):

(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 home ~~shall~~ will monitor an individual's risk for recurring incidents and implement corrective action, as appropriate.

(c) The home ~~shall~~ will work cooperatively with the support coordinator or targeted manager and the PSP team to revise the PSP ~~if indicated by the incident investigation.~~ as needed.

Discussion 6400.19.

§ 6400.20. **[~~Record of incidents.~~] Incident analysis.**

[~~The home shall maintain a record of individual illnesses, seizures, acute emotional traumas and accidents requiring medical attention but not inpatient hospitalization, that occur at the home.~~]

(a) The home 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 home ~~shall~~ will review and analyze all reportable incidents ~~and conduct a trend analysis~~ at least every 3 months.

(c) As part of the review, ~~The~~ the ~~a~~ home ~~shall~~ will identify and implement preventive measures when appropriate to attempt 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 home ~~shall educate staff persons and the individual based on the circumstances of the incident.~~ will provide training/retraining to staff persons and the individual, based on the outcome of the incident analyses as necessary.

(e) The home ~~shall analyze incident data continuously and take actions to mitigate and manage risks.~~ will monitor incident data and take actions to mitigate and manage risk factors as necessary.

Discussion 6400.20.

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

§ 6400.24. Applicable laws and regulations.

The home shall comply with applicable Federal, State and local laws, regulations and ordinances.

Discussion 6400.24.

INDIVIDUAL RIGHTS

§ 6400.31. **~~[Informing and encouraging exercise]~~ Exercise** of rights.

~~[(a) Each individual, or the individual's parent, guardian or advocate, if appropriate, shall be informed of the individual's rights upon admission and annually thereafter.~~

~~(b) Statements signed and dated by the individual, or the individual's parent, guardian or advocate, if appropriate, acknowledging receipt of the information on rights upon admission and annually thereafter, shall be kept.~~

~~(c) Each individual shall be encouraged to exercise his rights.~~]

(a) An individual may not be deprived of rights as provided under § 6400.32 (relating to rights of the individual). An approved PSP will be deemed consistent with an individual's rights.

(b) ~~An individual shall be continually supported to exercise the individual's rights.~~ An individual will be provided services, supports, and accommodations to assist the individual to understand and to actively exercise rights as he/she chooses. The services, supports, and accommodation necessary for the individual to understand and actively ~~activity~~ exercise rights as they choose will be funded by the Department as part of the PSP.

~~(c) An individual shall be provided the support and accommodation necessary to be able to understand and actively exercise the individual's rights.~~

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

(e)(d) A court's written order that restricts an individual's rights shall be followed as long as it does not violate natural human rights.~~.~~

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

Discussion 6400.31.

§ 6400.32. Rights **of the individual**.

[~~An individual may not be deprived of rights.~~]

(a) 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.

(b) ~~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.~~ An individual has the right to the same civil legal, and human rights afforded by law to all people.

(c) ~~An individual may not be abused, neglected, mistreated, exploited, abandoned or subjected to corporal punishment.~~ An individual has the right to be free from abuse, neglect, mistreatment, exploitation, abandonment or be subjected to corporal punishment

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

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

(~~f~~)(e) An individual has the right to refuse to participate in activities and supports.

(g)(f) An individual has the right to control ~~the~~ his/her ~~individual's~~ own schedule and activities in accordance with~~to~~ his or her~~their~~ PSP.

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

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

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

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

(~~l~~)(h) An individual has the right to receive scheduled and unscheduled visitors, and to communicate and meet privately with persons of the individual's choice, at any time as long as those visitors do not violate the rights of anyone else living in that home. .

(~~m~~)(i) An individual has the right to unrestricted access to send and receive mail and other forms of communications, unopened and unread by others.

(~~n~~)(j) An individual has the right to unrestricted and private access to telecommunications.

(~~o~~)(k) An individual has the right to manage and access his own finances.

(~~p~~)(l) An individual has the right to choose persons with whom to share a bedroom.

(~~q~~)(m) An individual has the right to furnish and decorate his or her bedroom~~the individual's~~ bedroom and the common areas of the home.

(~~r~~)(n) An individual has the right to lock the individual's bedroom door so long as the exercise of this right does not pose a threat to the individual's and/or another person's health, safety or well-being.

(s)(o) An individual has the right to access food at any time so long as the exercise of this right does not pose a threat to the individual's and/or another person's health, safety or well-being.

(~~t~~)(p) An individual has the right to make informed health care decisions.

Discussion 6400.32.

§ 6400.33. [~~Rights of the individual.~~] Negotiation of choices.

[~~(a) An individual may not be neglected, abused, mistreated or subjected to corporal punishment.~~

~~(b) An individual may not be required to participate in research projects.~~

~~(c) An individual has the right to manage personal financial affairs.~~

~~(d) An individual has the right to participate in program planning that affects the individual.~~

~~(e) An individual has the right to privacy in bedrooms, bathrooms and during personal care.~~

~~(f) An individual has the right to receive, purchase, have and use personal property.~~

~~(g) An individual has the right to receive scheduled and unscheduled visitors, communicate, associate and meet privately with family and persons of the individual's own choice.~~

~~(h) An individual has the right to reasonable access to a telephone and the opportunity to receive and make private calls, with assistance when necessary.~~

~~(i) An individual has the right to unrestricted mailing privileges.~~

~~(j) An individual who is of voting age shall be informed of the right to vote and shall be assisted to register and vote in elections.~~

~~(k) An individual has the right to practice the religion or faith of the individual's choice.~~

~~(l) An individual has the right to be free from excessive medication.~~

~~(m) An individual may not be required to work at the home, except for the upkeep of the individual's personal living areas and the upkeep of common living areas and grounds.~~]

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

(b) Choices ~~shall~~ will be negotiated by the affected individuals in accordance with the home's procedures for the individuals to resolve differences and make choices.

Discussion 6400.33.

§ 6400.34. **[~~Civil~~] Informing of** rights.

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

~~(b) The home 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, placement, use of the home, referrals and communication with non-English speaking and nonverbal individuals.~~

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

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

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

(a) The home shall inform and explain individual rights to the individual, and persons designated by the individual, upon admission to the home and annually thereafter.

(b) The home 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.

Discussion 6400.34.

STAFFING

§ 6400.44. Program specialist.

(a) A minimum of **[~~one~~]** 1 program specialist shall be assigned for every 30 individuals. A program specialist shall be responsible for a maximum of 30 people, including people served in other types of services.

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

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

~~(2) Providing the assessment as required under § 6400.181(f) (relating to assessment).~~

~~(3) Participating in the development of the ISP, ISP annual update and ISP revision.~~

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

~~(5) Fulfilling the role of plan lead, as applicable, under §§ 6400.182 and 6400.186(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 § 6400.186 for content accuracy.~~

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

~~(12) Reviewing the ISP with the individual as required under § 6400.186.~~

~~(13) Documenting the review of the ISP as required under § 6400.186.~~

~~(14) Providing the documentation of the ISP review to the SC, as applicable, and plan team members as required under § 6400.186(d).~~

~~(15) Informing plan team members of the option to decline the ISP review documentation as required under § 6400.186(e).~~

~~(16) Recommending a revision to a service or outcome in the ISP as provided under § 6400.186(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 § 6400.188 (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 activities for the individuals in accordance with the PSPs.

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

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

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

(1) A master's degree or above from an accredited college or university and 1 year **of** work experience working directly with individuals with an intellectual disability **or autism**.

(2) A bachelor's degree from an accredited college or university and 2 years **of** work experience working directly with individuals with an intellectual disability **or autism**.

(3) An associate's degree or 60 credit hours from an accredited college or university and 4 years **of** work experience working directly with individuals with an intellectual disability **or autism**.

Discussion 6400.44.

§ **6400.45. Staffing.**

(a) A minimum of one staff person for every eight individuals shall be awake and physically present at the home when individuals are awake at the home.

(b) A minimum of **[one] 1** staff person for every 16 individuals shall be physically present at the home when individuals are sleeping at the home.

(c) 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.

(d) 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).

(e) An individual may not be left unsupervised solely for the convenience of the residential home or the direct service worker.

Discussion 6400.45.

§ 6400.46. **[~~Staff~~] Emergency** training.

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

~~(b) The home shall have a training syllabus describing the orientation specified in subsection (a).~~

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

~~(d) 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.~~

~~(e) Program specialists and direct service workers shall have training in the areas of intellectual disability, the principles of integration, rights and program planning and implementation, within 30 calendar days after the day of initial employment or within 12 months prior to initial employment.~~

~~(f)~~ **(a)** Program specialists and direct service workers shall be trained before working with individuals in general fire safety, evacuation procedures, responsibilities during fire drills, the designated meeting place outside the 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 home, 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.

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

[(~~h~~)] (c) Program specialists and direct service workers and at least one person in a vehicle while individuals are being transported by the home**[,]** shall be trained before working with individuals in first aid techniques.

[(i)] (d) Program specialists, direct service workers and drivers of and aides in vehicles shall be trained within 6 months after the day of initial employment and annually thereafter, by an individual certified as a trainer by a hospital or other recognized health care organization, in first aid, ~~Heimlich~~ back blows and abdominal thrust techniques and cardio-pulmonary resuscitation. Jessica's note: Heimlich term is no longer included in the American Red Cross curriculum, now referred to as "back blows and abdominal thrusts"

~~[(j) 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.]~~

Discussion 6400.46.

(*Editor's Note*: Sections 6400.50—6400.52 are new and printed in regular type to enhance readability.)

§ 6400.50. Annual training plan.

(a) ~~The home 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 §§ 6400.46 and 6400.52 (relating to emergency training; and annual~~

~~training).~~ The home will design an annual training plan based on the needs specified in the individual's PSP and the provider's quality improvement strategy.

(b) The annual training plan ~~must~~ will include the orientation program as specified in § 6400.51 (relating to orientation program).

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

~~(d) The annual training plan must include the following:~~ The plan shall address the need for training in basics such as rights, trauma informed care,facilitating community integration, honoring choice and supporting individuals to maintain relationships.

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

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

(e) The plan will explain how the provider will assure that staff understand their responsibilities around the promotion of individual rights and the reporting of suspected rights violations, abuse or neglect in accordance with the regulations that define those rights and responsibilities.

(f) The plan will explain how the provider will assure that staff understand the safe and appropriate use of positive interventions, including the training in the plans which are unique for any one person served.

(g) The plan will include the following positions

(1) paid staff with client contract;

(2) paid and unpaid interns who provide reimbursed supports to an individual and work alone with individuals;

(3) volunteers who provide reimbursed supports to an individual and who work alone with individuals.

(h) The annual training plan shall include the following

(1) the title of the position to be trained

(2) the required training courses including the training course hours for each position

(i) Records of orientation and training including the training source, content, dates, length of training, copies of certificate receive and persons attending shall be kept.

(j) The provider shall keep a training record for each person trained

Discussion 6400.50.

The purpose for a training plan is defeated by the idea that specific subjects or specific number of hours will address the needs of the clients or the organization. The training plan

must be created based on an assessment that is by definition unique. As agencies analyze the needs of the people they support, the knowledge created in the field and their assessment of performance, a flexible, customized, quality focused plan will emerge. This new section collapses the critical elements of section 141 and 143 into one streamlined and accountable set of standards to not only maintain the basics, but to advance our work to the next level.

Collapse 6400.50 and 6400.52 into one section.

§ 6400.51. Orientation program.

(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):~~ Within 30 days after hire, and before working directly with or starting to provide service to an individual, the following persons will 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, including full-time and part-time staff persons.

(4) Volunteers who will ~~work alone~~ interact with individuals.

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

(6) Consultants who will ~~work alone~~ interact 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~~)(1) 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~~)(2) Individual rights.

(4)(5) Recognizing and reporting incidents.

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

(c) Within 30 days after hire, and before working directly with or starting to provide service to an individual, the following persons will also complete orientation training that incorporates

application of person-centered practices such as ~~including~~ respecting rights, facilitating community integration, honoring choice and supporting individuals in maintaining relationships:

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

(2) Direct support staff persons, including full-time and part-time staff persons.

(3) Household members who will provide a reimbursed support to the individual.

(4) Life sharers.

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

(6) The provider will maintain a training record for each person trained

(e) Anyone that works alone with an individual as part of an HCBS must complete orientation program, as described in subsection (b), within 30 days of hire.

Discussion 6400.51.

Focus on reducing the need for certain training in different levels. Open up the training of the basics to those who interact with individuals. Focus on protecting the individuals and limiting the extensive training requirements for certain positions.

As noted in discussion section of 6400.50 the provisions included in 6400.50 (e) and (f) should be added to this section in order to clearly indicate the need for documentation and record of training.

This section is geared towards licensed providers. Remove AWC, OHCDS from the regulations and modify this section for unlicensed providers and transportation trip providers. Payment rates must be increased significantly for unlicensed providers and Transportation trip providers if they are expected to comply fully with this section. This list is not fully inclusive and infers that transportation mile individuals (OHCDS/AWC) who are reimbursed but not household members do not need training. Also, the inclusion of volunteers, management staff is problematic for unlicensed providers, transportation trip, AWC and OHCDS providers. The department must reconsider this section as it relates to all services, provider types and service delivery models.

~~§ 6400.52. Annual training.~~

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

~~(1) Direct service workers.~~

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

~~(3) Program specialists.~~

~~(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 adult 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 home in the home's annual training plan in § 6400.50 (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 staff persons attending, shall be kept.~~

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

Discussion 6400.52.

We recommend AWC and OHCDS be removed from the regulations and that Transportation Trip and Unlicensed home and community based providers be excluded from 6100.143 as written. We believe this list of training is geared strictly towards licensed providers and impedes the promotion of family support models of service delivery. A prescribed number of hours for training will not support appropriate training specific for the individual and does not afford the opportunity for families/participants and the unlicensed providers and Transportation trip providers that support them with the type and frequency of training that is needed for the individual. When there are established mandates to hours versus individuality, the quality is a lost and the opportunity to supporting the values of ODP and everyday lives is lost. The current unit rates will not support the increase in training requirements. Optimally, AWC and OHCDS providers will be removed from 6100 regulations and unlicensed providers and transportation trip providers should have separate training requirements that do not include a specific number of hours.

See comment under 6100.50.

MEDICATIONS

Discussion MEDICATIONS

There are two extremely important issues concerning the proposed new regulations pertaining to medication administration. These need to be addressed to prevent unintended negative consequences.

1. Codifying content that requires modifications over time into regulations will lock a crucial component of service provision into temporal practices which will become obsolete as new information, prevailing practices and technologies emerge. Duplicating content which is as detail-specific as the proposed five-and-a-half pages of regulation across 5 sets of regulations when the state already has an externally - accepted training module invites discrepancy between the regulations and the training manual and prohibits the training module from staying current as new information, prevailing practices and technology emerge.

2. Requiring 6500 LifeSharing providers to complete and adhere to ODP's Medication Administration Module is a new and counterproductive requirement which is in direct contract to Everyday Lives principals and the Department's stated intent to develop more integrated and natural life opportunities for individuals.

Regarding 1

As a ready example of the problem with codifying material which requires change over time, an area has been identified in which the proposed regulations are at odds with prevailing practices as detailed by Title 49 of the State Nursing Board. Title 49 PA. CODE CH. 21 explicitly provides for Licensed Practical Nurses to accept oral orders for administering

medication. The proposed 6100.465 provision only allows this practice for Registered Nurses.

This discrepancy is instructive both to the specific issue regarding LPN's and to the process issue of codifying Nursing Practices content which changes from time to time according to authorities outside of the Department. It is noted that the provider system needs LPN's to be able to do all that state law provides for them to do. In the second case, we need regulations which do not lock providers to standards which may soon become obsolete due to new and emerging best practices and advances.

A second example of the problem with trying to maintain this content in multiple places is that there are already discrepancies between the proposed 6100's and the Department's Approved Medication Administration Training. The training's required checklist for medication self-administration has discrepancies with the proposed regulation. There is also a notable practice discrepancy regarding pre-pouring of medications. We should avoid such confusion by maintaining this content in just one place, namely the Medication Administration Training module and not regulations.

Regarding 2

We believe that there was an inadvertent problem created by the inclusion of standardized medications content across these four program areas, which would include the 6500 regulations. If the 6500 LifeSharing programs are included in this requirement, significant unintended consequence are likely to severely impact the viability and expansion of this program; one which the Department has repeatedly stated they desire to expand. A consequence as well for the inclusion of this provision for 6500 programs will be more institutional style program expectations in a program which should increasingly exemplify the ideals of Everyday Lives principals in an integrated and typical family fashion. LifeSharing (6500) service providers are not currently required to complete the ODP Medication Training Module. The Module is necessarily a very detailed training requiring at least two full days of training plus four subsequent in-situ observations. This level of intensive training is possible in 2380, 2390 and 6400 programs because they have staff who are employees with employer-controlled schedules and they have centralized access to administrative supports. These conditions do not exist and are not desirable for LifeSharing. LifeSharing is provided in people's homes.

LifeSharing providers are not employees who spend regular time at training locations, nor should they – they are typical families who work and live in the community. These families work their own independent jobs in the community and would be challenged just to have the physical access to go through this process. There is already a shortage of certified medication administration trainers contributing to this access problem. Requiring this additional training would necessarily result in losing some providers who are unable to connect with the available training times and places, and potentially separating an already established shared life situation with an individual. It would also add a new barrier for new family-providers at a time when the Department is trying to expand this service and providers are trying to find and

recruit willing families.

Another problem with this expansion of the Training Module into the 6500's involves the respite services which are crucial to helping LifeSharing providers to support individuals over the long-haul. Respite providers are often potential LifeSharing providers who are interested in gaining experience with the service and with individuals. These new/potential providers have not gone through full process as providers yet – adding this considerable step when they are not yet committed to the service would be destructive to the service.

Yet another problem with requiring specific detailed training that can only come from service agencies to the 6500's is the necessity that we maintain LifeSharing providers' relationship as contracted supports rather than employees. The level of training specificity, the fact that it would be the "presumed employer" providing the training and the likelihood that LifeSharing families would be taking the training alongside employees with no differentiation from the employees all implies an employee relationship which needs to be avoided if LifeSharing is going to continue to be an efficient, community-based model.

Finally, there is also a simple matter of proportionality. LifeSharing providers generally only serve one individual and the individuals in LifeSharing are typically able to take more responsibility for themselves than individuals in the other licensure groups. LifeSharing providers are able to focus-in on the needs of their lifesharer. They do not need days of general information. To require the Medication Administration Module of them would be disproportionate to their task – in fact, it would change the nature of the service from family-like supports to medical-model "administration" of medical care.

Sections 6100.461-6100.469, 2380.121-2380.129, 2390.191-2390.199, 6400.161-169 and 6500.131-6500.139 should be rewritten so that 2380, 2390 and 6400 programs are subject to ODP's approved Medication Administration Module, current applicable practices law and nothing else. Additionally, 6500 programs shall be subject to existing (not proposed) 6500 regulations, current applicable law and nothing else. The 6100.470 Exception for Family Members should be retained.

Self-administered Prescription Medications shall be supported according to the Office of Developmental Programs' Approved Medication Administration Training.

§ 6400.161. **[~~Storage of medications.~~] Self-admini-stration.**

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

~~(b) Prescription and potentially toxic nonprescription medications shall be kept in an area or container that is locked, unless it is documented in each individual's assessment that each individual in the home can safely use or avoid toxic materials.~~

~~(c) Prescription and potentially toxic nonprescription medications stored in a refrigerator shall be kept in a separate locked container, unless it is documented in each individual's assessment that each individual in the home can safely use or avoid toxic materials.~~

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

~~(e) Discontinued prescription medications shall be disposed of in a safe manner.~~]

(a) A home ~~shall~~ will 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~~ may include helping the individual to ~~remember~~ adhere to the schedule for taking the medication, offering the individual the medication at the prescribed times, opening a medication container, reviewing with the individual the names and dosages of each medication, and storing the medication in a secure place.

(c) The ~~provider~~ PSP team ~~shall~~ will ~~provide or arrange for~~ facilitate the utilization of assistive technology to support the individual's self-administration of medications.

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

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

(1) Be able to recognize and distinguish ~~the individual's~~ his/her medication

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

(3) Know and understand the purpose for taking the medication.

~~(3)~~(4) 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)(5) Be able to take or apply ~~the individual's~~ his/her own medication with or without the use of assistive technology.

Discussion 6400.161.

1. Codifying content that requires modifications over time into regulations will lock a

crucial component of service provision into temporal practices which will become obsolete as new information, prevailing practices and technologies emerge. Duplicating content which is as detail-specific as the proposed five-and-a-half pages of regulation across 5 sets of regulations when the state already has an externally - accepted training module invites discrepancy between the regulations and the training manual and prohibits the training module from staying current as new information, prevailing practices and technology emerge.

2. Requiring 6500 LifeSharing providers to complete and adhere to ODP's Medication Administration Module is a new and counterproductive requirement which is in direct contract to Everyday Lives principals and the Department's stated intent to develop more integrated and natural life opportunities for individuals.

These points as further described in Discussion for 6100.461 persuade us to recommend that 6100 regulations pertaining to Medication Administration should refer to the Departments Approved Medication Training for the 2380, 2390 and 6400 services and should cite existing 6500 regulations for the 6500 services. The 6100.470 Exception for Family Members should be retained.

Prescription Medications shall be stored and disposed of according to the Office of Developmental Programs' Approved Medication Administration Training.

§ 6400.162. **[~~Labeling of medications.~~] Medication administration.**

[~~(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 shall be labeled with the original label.~~]

(a) ~~A home whose staff persons or others are qualified to administer medications as specified in subsection (b) may provide medication administration for an individual who is unable to self-administer the individual's prescribed medication.~~ Persons who administer prescription medication or insulin injections to individuals shall receive training by the individual's source of healthcare or by the the prescribed department's medication administration model as required by chapters 2380, 2390, and 6400.

(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 § 6400.169 (relating to medication administration training) for the medication administration of the following:

(i) Oral medications.

(ii) Topical medications.

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

(iv) Insulin injections.

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

(vi) Medications administered via G/U tube.

(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 in 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.

Discussion 6400.162.

We believe that there was an inadvertent problem created by the inclusion of standardize medications content across these four program areas, which would include the 6500 regulations. If the 6500 LifeSharing programs are included in this requirement, significant unintended consequence are likely to severely impact the viability and expansion of this program; one which the Department has repeatedly stated they desire to expand. A consequence as well for the inclusion of this provision for 6500 programs will be more institutional style program expectations in a program which should increasingly exemplify the ideals of Everyday Lives principals in an integrated and typical family fashion to the retest degree. LifeSharing (6500) service providers are not currently required to complete the ODP Medication Training Module. The Module is necessarily a very detailed training requiring at least two full days of training plus four subsequent observations. This level of intensive

training is possible in 2380, 2390 and 6400 programs because they have staff who are employees with employer-controlled schedules and they have centralized access to administrative supports, in perhaps a less intrusive way than entering a family's home. These conditions do not exist and are not desirable for LifeSharing. LifeSharing is provided in people's homes.

LifeSharing providers are not employees who spend regular time at training locations, nor should they – they are typical families who work and live in the community. These families work their own independent jobs in the community and would be challenged just to have the physical access to go through this process. There is already a shortage of certified medication administration trainers contributing to this access problem. Requiring this additional training would necessarily result in losing some providers who are unable to connect with the available training times and places, and potentially separating an already established shared life situation with an individual. It would also add a new barrier for new family-providers at a time when the Department is trying to expand this service and providers trying to find and recruit willing families.

Another problem with this expansion of the Training Module into the 6500's involves the respite services which are crucial to helping LifeSharing providers to support individuals over the long-haul. Respite providers are often potential LifeSharing providers who are interested in gaining experience with the service and with individuals. These new/potential providers have not gone through full process as providers yet – adding this considerable step when they are not yet committed to the service would be destructive to the service.

Further concerns with requiring specific detailed training that can only come from service agencies to the 6500's is the necessity that we maintain LifeSharing providers' relationship as contracted supports rather than employees. The level of training specificity, the fact that it would be the "presumed employer" providing the training and the likelihood that LifeSharing providers would be taking the training alongside employees with no differentiation from the employees all implies an employee relationship which needs to be avoided if LifeSharing is going to continue to be an efficient, community-based model. Clear expectations are established by the IRS and DOL which providers must explicitly follow to maintain explicit differences between independent contractors and employees.

Finally, there is also a simple matter of proportionality. LifeSharing providers generally only serve one individual and the individuals in Life Sharing are typically able to take more responsibility for themselves than individuals in the other licensure groups. LifeSharing providers are able to focus-in on the needs of their lifesharer. They do not need days of general information. To require the Medication Administration Module of them would be disproportionate to their task – in fact, it would change the nature of the service from family-like supports to medical-model "administration" of medical care.

Oral, topical and drop medications will be administered according to the Office of Developmental Programs' Approved Medication Administration Training.

Insulin administration additionally requires successful completion of a Department-approved

diabetes patient education program.

Epinephrine auto-injection requires the Office of Developmental Programs' Approved Medication Administration Training and epinephrine injection device training provided by a licensed, registered or certified health care professional.

§ 6400.163. [~~Use of prescription~~] **Storage and disposal of** medications.

[~~(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 diagnosed psychiatric illness.~~

~~(c) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a review with documentation by a licensed physician at least every 3 months that includes the reason for prescribing the medication, the need to continue the medication and the necessary dosage.~~]

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

(b) ~~A prescription medication may not be removed from its original labeled container more than 2 hours in advance of the scheduled administration.~~ Prescription and potentially toxic nonprescription medications shall be kept in an area or container that is locked or made inaccessible to the individuals, unless it is documented in each individual's assessment that each individual in the home can safely use or avoid toxic materials.

(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.~~ Prescription and potentially toxic nonprescription medications stored in a refrigerator shall be kept in a separate locked container or made inaccessible to the individuals, unless it is documented in each individual's assessment that each individual in the home can safely use or avoid toxic materials.

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

(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.~~ **Discontinued prescription medications of individuals shall be disposed of in a safe manner.**

~~(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 in the individual's private bedroom.~~

Discussion 6400.163.

Adapted from Ch. 6500

Prescription Medications shall be administered to individuals according to the Office of Developmental Programs' Approved Medication Administration Training.

§ 6400.164. **[~~Medication log.~~] Labeling of medications.**

~~[(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 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.~~

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

(b) Nonprescription medications used by individuals shall be labeled with the original label.

Discussion 6400.164.

Adapted from Chapter 6500.

1. Codifying content that requires modifications over time into regulations will lock a crucial component of service provision into temporal practices which will become obsolete as new information, prevailing practices and technologies emerge. Duplicating content which is as detail-specific as the proposed five-and-a-half pages of regulation across 5 sets of regulations when the state already has an externally - accepted training module invites discrepancy between the regulations and the training manual and prohibits the training module from staying current as new information, prevailing practices and technology emerge.

2. Requiring 6500 LifeSharing providers to complete and adhere to ODP's Medication Administration Module is a new and counterproductive requirement which is in direct contract to Everyday Lives principals and the Department's stated intent to develop more integrated and natural life opportunities for individuals.

These points as further described in Discussion for 6100.461 persuade us to recommend that 6100 regulations pertaining to Medication Administration should refer to the Departments Approved Medication Training for the 2380, 2390 and 6400 services and should cite existing 6500 regulations for the 6500 services. The 6100.470 Exception for Family Members should be retained.

Prescription Medications shall be labelled according to the Office of Developmental Programs' Approved Medication Administration Training.

§ 6400.165. **[~~Medication errors.~~]** **~~Prescription medications.~~** **Use of a prescription.**

[~~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.~~

(a) A prescription medication 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 PSP to address the social, emotional and environmental needs of the individual related to the symptoms of the diagnosed psychiatric illness.

(c) If a medication is prescribed to treat symptoms of a diagnosed psychiatric illness, there shall be a review with documentation by a licensed physician or a certified nurse practitioner at least every 3 months that includes the reason for prescribing the medication, the need to continue the medication and the necessary dosage.

Discussion 6400.165.

Adapted from Chapter 6500

§ 6400.166. **[~~Adverse reaction.~~] Medication record.**

[~~If an individual has a suspected adverse reaction to a medication, the home shall notify the prescribing physician 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) 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 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.~~

(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 and the name of the prescribing physician shall be kept for each individual who self-administers medication.

Discussion 6400.166.

Adapted from Chapter 6500

§ 6400.167. **[~~Administration of prescription medications and~~ injections.] Medication errors.**

~~[(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, licensed 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 home.~~

~~(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 home.~~

~~(4) A staff person who meets the criteria specified in § 6400.168 (relating to medications administration training) for the administration of oral, topical and eye and ear drop prescriptions and insulin injections.~~

~~(b) Prescription medications and injections shall be administered according to the directions specified by a licensed physician, certified nurse practitioner or licensed physician's assistant.~~]

(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~~,~~ and follow-up action taken ~~and the prescriber's response shall~~ will be kept ~~in the individual's record~~.

Discussion 6400.167.

Adapted from Chapter 6500

Medications errors shall be handled according to the Office of Developmental Programs' Approved Medication Administration Training.

§ 6400.168. **[~~Medications administration training.~~] Adverse reaction.**

~~[(a) In a home serving eight or fewer individuals, 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) In a home serving eight or fewer individuals, 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, if insulin is premeasured by licensed or certified medical personnel.~~

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

~~(d) A staff person who administers prescription medications and insulin injections to an individual shall complete and pass 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 home 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.~~

If an individual has a suspected adverse reaction to a medication, emergency services or 911 and the healthcare provider will be contacted immediately. Documentation of adverse reactions shall be kept in the individual's record.

Discussion 6400.168.

Adapted from Chapter 6500

Adverse reactions shall be handled according to the Office of Developmental Programs' Approved Medication Administration Training.

§ 6400.169. **[~~Self-administration of medications.~~] Medication administration training.**

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

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

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

~~(3) Know when 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:~~ **Prescription medications and insulin injections shall be administered according to the directions specified by a licensed physician, certified nurse practitioner or licensed physician's assistant.**

~~(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~~ will be kept including the person trained, the date, source, name of trainer and documentation that the course was successfully completed.

Discussion 6400.169.

Oral, topical and drop medications will be administered according to the Office of Developmental Programs' Approved Medication Administration Training.

Insulin administration additionally requires successful completion of a Department-approved

diabetes patient education program.

Epinephrine auto-injection requires the Office of Developmental Programs' Approved Medication Administration Training and epinephrine injection device training provided by a licensed, registered or certified health care professional.

PROGRAM

§ 6400.181. Assessment.

* * * * *

(b) If the program specialist is making a recommendation to revise a service or outcome in the **[ISP as provided under § 6400.186(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, as applicable, and **[plan] PSP** team members at least 30 calendar 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**.

Discussion 6400.181.

§ 6400.182. Development**~~[, annual update and revision of the ISP]~~ and revisions of the PSP**.

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

~~**(b) When an individual is not receiving services through an SCO, the residential program specialist shall be the plan lead when one of the following applies:**~~

~~**(1) The individual resides at a residential home licensed under this chapter.**~~

~~**(2) The individual resides at a residential home licensed under this chapter and attends a facility licensed under Chapter 2380 or 2390 (relating to adult training facilities; and 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 § 6400.186 (relating to ISP review and revision), shall be provided as required under § 6400.187 (relating to copies).]~~

(a) ~~An individual shall have one approved and authorized PSP at a given time.~~ The PSP must reflect what is important to the individual to ensure that services are delivered in a manner reflecting individual preferences and ensuring the individual's health, safety and well-being in balance with dignity of risk, as agreed upon by the PSP team so as to promote opportunity for an Everyday Life.

(1) Individuals who may be persons designated by the individual should be involved in the development and revisions of the PSP and direct the process.

(2) The individual should be supported to direct the process to the greatest extent possible and exercise informed choices and decision making when applicable.

(3) Consideration of the needs of individuals pertaining to location ~~and~~

(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.~~ will be responsible for the development of the PSP, including revisions, in collaboration with the individual and the individual's PSP team.

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

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

revisions at least annually, or when the needs or support system of the individual changes, and/or upon the request of the individual or court appointed legal guardian.

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

(f) The PSP and PSP revisions are to be correlated with a current valid assessment and the individual and PSP team input. Jessica's note: Suggest deletion of Dept-specified form, if all necessary information is included, and particularly, if access will remain limited to providers and only available to SC orgs

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

(h) The individual, court appointed legal guardian(s), and/or persons designated by the individual may request updates for consideration to the PSP at any time. These requests should be submitted in writing to the supports coordinator or program specialist, if applicable, and shall result in a reconvene of the PSP team within 30 calendar days.

Discussion 6400.182.

PAR is pleased to see the inclusion of an expectation that there is one plan for the individual as included in 6400.182 (a) and supports this provision.

6400.182 (b) Unclear of definition around "service implementation plan." It should be broader in scope. This is adding cost because it is a new plan. This adds flexibility to the system and providers to use whatever method they want to develop. Change to "Any implementation of service should be based on the PSP."

In 6400.182 (e) "or court appointed legal guardian" should be added at the end of the statement to indicate that a guardian may also request a revision to the PSP.

6400.182 (e) is recommended to be revised to indicate that a PSP will be "evaluated for revision" and not necessarily revised each time. A PSP may be determined to be appropriate and not require revision. In addition, the specific expectation that "at least annually" be added to this provision to make clear that this process is annual.

6400.182 (f) "The PSP and PSP revisions are to be correlated with a current valid assessment and the individual and PSP team input."

6400.182 (f) delete as it is redundant now.

§ 6400.183. **[~~Content of the ISP.~~] The PSP team.**

[~~The ISP, including annual updates and revisions under § 6400.186 (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 volunteer or civic-minded opportunities and membership in National or local organizations as required under § 6400.188 (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) Residential independence.~~

~~(ii) Community involvement.~~

~~(iii) Vocational programming.~~

~~(iv) 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.~~

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

~~(4) The program specialist.~~

~~(5) The support coordinator, targeted support manager or a program representative from the funding source, if applicable.~~

~~(6) The program specialist for the individual's day program, if applicable.~~

~~(7) 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.~~

Discussion 6400.183.

Delete this section and add essential content to 6400.182 and 6400.185 as noted.

§ 6400.184. **[~~Plan team participation.~~] The PSP process.**

[~~(a) The plan team shall participate in the development of the ISP, including the annual updates and revisions under § 6400.186 (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 services 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.~~

~~(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 cultural considerations of 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.~~

Discussion 6400.184.

Delete section and add essential content to 2380.182 and 2380.185 as noted.

Add clarification to the 6100.184 title (Development and revisions of the PSP) and then delete all of 6100.184 but pull up specifics as noted below to represent the general focus of individual's guiding the process.

§ 6400.185. **[~~Implementation of the ISP.~~] Content of the PSP.**

~~[(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, preferences and functional abilities.

(2) The individual's ~~individualized~~ assessed diagnoses, clinical and support needs.

(3) The individual's goals and preferences such as those related to relationships, community participation, self-determination, employment, income and savings, health care, wellness, quality of life and education.

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

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

(6) The type, amount of units, 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) The individual's communication mode, abilities and needs.

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

(~~9~~)(8) The level of needed support, risk factors, dangerous behaviors and risk mitigation strategies, if applicable.

(~~10~~)(9) Modification of individual rights as necessary to mitigate risks, if applicable. The PSP as approved by the PSP team is presumed to be consistent with an individual's rights and is the governing document for rights purposes.

(~~11~~)(10) Health care information, including a health care history.

(~~12~~)(11) Financial information including how the individual ~~chooses~~ may choose to use personal funds based on history and communicated interest.

(~~13~~)(12) The person or entity responsible for monitoring the implementation of the PSP.

(14) If the individual has a known behavioral support need, it must be identified in the PSP, or if a new behavior is identified, it must be added to the PSP through a revision.

Discussion 6400.185.

§ 6400.186. **[~~ISP review and revision.~~] Implementation of the PSP.**

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

(2) A review of each section of the ISP specific to the residential home 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 § 6400.181(b) (relating to assessments).

(d) The program specialist shall provide the ISP review documentation, including recommendations, if applicable, to the SC, 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 home ~~shall~~ will implement the PSP, including revisions.

Discussion 6400.186.

§ 6400.187. [~~Copies.~~] (Reserved).

[~~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.~~]

Discussion 6400.187.

§ 6400.188. [~~Provider services.~~] (Reserved).

[~~(a) The residential home 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 residential home shall provide opportunities and support to the individual for participation in community life, including volunteer or civic-minded opportunities and membership in National or local organizations.~~

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

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

Discussion 6400.188.

[~~RESTRICTIVE PROCEDURES~~] POSITIVE INTERVENTION

§ 6400.191. [~~Definition of restrictive procedures.~~] Use of a positive intervention.

~~[A restrictive procedure is a practice that limits an individual's movement, activity or function; interferes with an individual's ability to acquire positive reinforcement; results in the loss of objects or activities that an individual values; or requires an individual to engage in a behavior that the individual would not engage in given freedom of choice.]~~

~~(a)~~ A positive intervention ~~shall~~ will be used ~~to prevent, modify and eliminate a dangerous behavior~~ when ~~the~~ challenging behaviors ~~is~~ are anticipated and/or ~~occurring~~ in response to challenging behaviors to prevent escalation of behaviors, or in attempts to modify, decrease or eliminate behaviors.

~~(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 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 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.~~

Discussion 6400.191.

All definitions have been moved to 6400.5

§ 6400.192. [~~Written policy.~~] PSP.

~~[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 home.]~~

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

~~(1) The specific dangerous behavior to be addressed.~~

~~(2) A functional analysis of the dangerous 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 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.~~

Discussion 6400.192.

It is recommended that this section be deleted and content rolled to 6400.183 as specified in the comment.

§ 6400.192 Dangerous Behavior Intervention

(a) The least intrusive intervention shall be used to deescalate the dangerous behaviors when the behavior is occurring.

(b) A physical restraint may be used in the case of a dangerous behavior to prevent an individual from injuring ~~the~~ himself ~~individual's self~~ or others.

(c) If the individual has a known dangerous behavior, it must be identified and addressed in the PSP, or if a new dangerous behavior is identified it should be added to the PSP through a revision.

§ 6400.193. **[~~Appropriate use of restrictive procedures.~~] Prohibition of restraints.**

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

~~(b) For each incident requiring restrictive procedures:~~

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

~~(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~~ including 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~~ including the application of startling, painful or noxious stimuli in response to the exhibition of behavior in an effort to modify the behavior.

(3) Pressure point techniques~~, defined as~~ including the application of pain for the purpose of achieving compliance. This does not apply to utilization as a method of intervention from approved physical management techniques in response to aggressive behavior, such as a bite release.

(4) ~~A~~ A chemical restraint~~, defined as~~ including the 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, or following a medical or dental examination or treatment.

(5) A mechanical restraint, ~~defined as~~ including 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~~ A mechanical restraint does not include a device prescribed by a health care practitioner that is used to provide pre/post-surgical/medical care, proper balance or support for the achievement of functional body position.

(ii) ~~The term~~ A mechanical restraint 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~~ physical 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.~~ may not be used for a period of more than 30~~15~~ minutes within a 2-hour period without documented emergency approval by provider administrative or clinical staff.

(7) A prone position ~~manual~~ physical restraint.

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

(9) A physical restraint may not be used as a substitute for positive behavioral interventions, or as retribution, punishment, ~~noncompliance~~, or for the convenience of staff persons.

Discussion 6400.193.

§ 6400.194. [~~Restrictive procedure review committee.~~] Permitted interventions.

[~~(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 from his immediate environment and placing himself alone to a room or area, is permitted in accordance with the individual's PSP.~~

(b) A physical ~~protective~~ restraint may be used when an individual engages in dangerous behavior as approved in the PSP, or used in an unanticipated emergency basis when the individual is exhibiting dangerous behaviors that could harm himself or others.§ 6400.193(6)—(8) (relating to prohibition of restraints).

(c) A physical ~~protective~~ restraint ~~may not~~ must be used ~~until §§ 6400.52(c)(5) and 6400.185(9) (relating to annual training; and content of the PSP) are met.~~ in accordance with the following provisions of this chapter:

(1) 6400.193 concerning prohibition of certain types of restrictive procedures.

(2) 6400.52 (c)(5) concerning annual training on use of safe and appropriate interventions.

(d) Alternative options to physical restraint that provide more freedom of movement than physical restraints, such as certain mechanical restraints (e.g., a helmet with fastening straps, the use of adaptive furniture, etc.), are deemed less restrictive options and may be used to prevent or manage dangerous behavior.

(~~d~~e) A physical protective restraint may only be used in the case of an emergency to prevent an individual from injuring ~~the individual's~~ him/herself or others.

(f) For individuals with a history of dangerous behavior, the use of restraint may be used in order to maintain the safety of the individual and others in the immediate area.

Use of restraint as a contingency for managing dangerous behavior must be clearly outlined in the individual's PSP.

(g) All staff members using physical restraint must receive instruction in the safe and appropriate use of physical management procedures, including the use of physical restraint. A training record of participation must be kept in the treatment record for an individual whose plan includes the planned use of physical restraint to manage dangerous behavior.

(f)(h) A physical protective restraint may not be used for more than 15 minutes within a 2-hour period, unless necessary to manage behavior that poses an immediate and serious risk to the safety of the individual or others. An incident report must be completed for any restraint lasting longer than 15 minutes and include the following:

(i) A description of the events leading up to the individual's dangerous behavior.

(ii) A description of the dangerous behavior and the immediate risk it posed.

(iii) The risks associated with not utilizing physical restraint after 15 minutes.

Jessica's note: This is a significant reduction in currently allowed maximal duration of restraint (e.g., 30 minutes in any 2-hour period), and although infrequent that restraints do exceed this time frame, will result in increased access of emergency, police, and/or ER services which are far more poorly equipped to support our individuals than we and often, reinforces challenging and dangerous behaviors, if an FBA determines to be escape-maintained. Police and emergency medical care also increases likelihood of mechanical and chemical restraint sooner in an individuals' episode of crisis.

~~(g) A physical protective restraint may only be used by a staff person who is trained as specified in § 6400.52.~~

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

Discussion 6400.194.

Definitions moved to 6400.5

§ 6400.195. **[~~Restrictive procedure plan.~~] Access to or the use of an individual's personal property.**

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

~~(8) The name of the staff person 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 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 home shall keep a copy of the individual's written consent.

Discussion 6400.195.

§ 6400.196. [~~Staff training.~~] Rights team.

[~~(a) If restrictive procedures are used, there shall be at least one staff person available when restrictive procedures are 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, a staff person responsible for developing, implementing or managing a restrictive procedure plan shall have experienced use of the specific techniques or procedures directly on themselves.~~

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

(a) The home shall have a rights team. The home 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 §§ 6400.31—6400.34 (relating to individual rights).

(2) Review each incidence of the use of a restraint as specified in §§ 6400.191—6400.194 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, the individual's support coordinator, a representative from the funding agency and a home 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 months.

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

(h) The home shall keep documentation of the rights team meetings and the decisions made at the meetings.

Discussion 6400.196.

(*Editor's Note*: As part of this proposed rulemaking, the Department is proposing to rescind §§ 6400.197—6400.206 which appear in 55 Pa. Code pages 6400-61—6400-65, serial pages (381985)—(381989).)

§§ 6400.197—6400.206. (Reserved).

Discussion 6400.197.

INDIVIDUAL RECORDS

§ 6400.213. Content of records.

Each individual's record must include the following information:

(1) Personal information including:

(i) The name, sex, admission date, birthdate and **[~~social security~~] 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) The religious affiliation.

(v) The next of kin.

(vi) A current, dated photograph **to be updated minimally on an annual basis**.

(vii) The names and contact information for legal guardians and custody arrangements if the individual is not his/her own guardian.

(viii) A list of approved visitors.

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

(3) Physical examinations.

(4) Dental examinations.

(5) Dental hygiene plans.

(6) Assessments as required under § 6400.181 (relating to assessment).

~~**[(7) A copy of the invitation to:**~~

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

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

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

~~**(8) A copy of the signature sheets for:**~~

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

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

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

~~**(9) A copy of the current ISP.**~~

~~**(10) Documentation of ISP reviews and revisions under § 6400.186 (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.~~

~~(11) Content discrepancy in the ISP, The annual update or revision under § 6400.186.~~]

(7) PSP documents as required by this chapter.

~~[(12) Restrictive procedure protocols and~~] **(8) Positive intervention records** related to the individual.

[(~~13~~)] (9) Copies of psychological evaluations, if applicable.

[(~~14~~)] (10) Recreational and social activities provided to the individual.

Discussion 6400.213.