

# DEPARTMENT OF DEVELOPMENTAL SERVICES

## ADDENDUM TO THE FINDING OF EMERGENCY Children's Community Crisis Homes (CCH) Emergency Regulations

### I. GENERAL

On June 15, 2021, the Department of Developmental Services (Department) submitted the Notice and Finding of Emergency for the rulemaking entitled "Children's Community Crisis Homes Emergency Regulations," to the Office of Administrative Law for its review and approval.

In response to some comments received and OAL's review, modifications and corrections were made to the originally Proposed Emergency Regulation Order and Notice and Finding of Emergency. These modifications are described below.

### II MODIFICATIONS

A. Modifications and additions made to the Proposed Emergency Regulation Order.

#### **Section 59000(a)(24) Functional Behavior Assessment.**

The definition of the term Functional Behavior Assessment was modified to clarify its meaning per a comment received from the Association of Regional Center Agencies (ARCA). The definition now reads:

"Functional Behavior Assessment" means a variety of systematic information-gathering activities whereby relevant and specific data are collected to determine regarding factors influencing the occurrence of a behavior, such as but not limited to antecedents, consequences, setting events, motivating operations, trauma history, indirect assessment, direct observation, and experimental analysis. The results are used as the basis to design a consumer's Individual Behavior Supports Plan.

#### **Section 59007(a)(3)(E)(F) and (G).**

The following subsections were added to (a)(3) for clarity and to align with Section 59008(g).

(a)(23) Overview of primary and secondary diagnoses, including, but not limited to:

- (A) Developmental disability;
- (B) Mental illness/behavioral health; and
- (C) Substance use and abuse;
- (D) Trauma-informed care;
- (E) Person-centered practices;**
- (F) Positive behavioral supports; and**

### (G) Cultural competency.

#### **Section 59008(b) and (g)**

Subsection (b) was modified to remove “an additional” and to add “which may be counted towards the required hours in subsection (a)” to reduce confusion that additional hours above 25 are required for continuing education. The new subsection (b) now reads:

(b) Community Crisis Homes shall provide an additional 5 hours of competency-based continuing education in the areas of person-centered practices, positive behavior supports, trauma-informed care, and cultural competency which may be counted towards the required hours in subsection (a).

Subsection (g) was modified to clarify the requirements of the monthly refresher staff training. The new subsection (g) now reads:

(g) In addition to the training requirements in subsection (a), the administrator shall ensure a minimum of 20 minutes of monthly refresher staff training is provided. The refresher training must focused on one of the emergency intervention and de-escalation strategies including the techniques the licenseestaff will use to prevent injury and maintain safety of regarding consumers who are a danger to self or others. The refresher training must emphasize positive behavioral supports and techniques that are alternatives to physical restraint.

#### **Section 59009.5(d)(1)**

Subsection (d)(1) was modified for clarity. The new subsection (d)1) now reads:

(d)(1) ~~The latest information updated with the h~~ Historical and current graphed data of consumer’s target behavior(s) for visual analysis and an understanding of progress made since entering the Community Crisis Home. The latest information must be updated to include targeted behavior(s) observed and a summary of progress since the last written request;

#### **Section 59010.4(d)**

In response to a comment from ARCA, the Department added a new subsection (d) to clarify that with approval from the consumer, clients rights advocates and regional center representatives shall be invited but not required to attend the debriefing. The new subsection (d) now reads:

(d) The debriefing may also include the clients’ rights advocate and a regional center representative with approval from the consumer. Those individuals shall be invited to the debriefing but are not required to attend the debriefing.

The rest of the section was renumbered accordingly.

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### **Section 59010.5. Restraint Data Reporting.**

In response to a comment from ARCA, the Department added the regional center to receive the monthly reports from the facilities.

On a monthly basis, a facility shall report to the Department and the regional center the number of incidents where behavioral restraints were used, and the duration of time spent per incident of restraint.

### B. Modifications made to the Finding of Emergency.

A correction to the Finding of Emergency's necessity for new section 59010.3(c) is shown below

#### New Section 59010.3, Subd (c)

This regulatory action would add new section 59010.3 subdivision (c). The regulatory action specifies that if suspected physical injury or a complaint of physical injury are reported to or witnessed by staff during or after the physical restraint, it must be reported to the Community Crisis Home Administrator or Administrator's designee immediately within two hours. In this case, a written incident report must be submitted to the Department of Social Services and the regional center as specified by (title 22, § 80061). The regional center then submits the report to the Department. Suspected physical injury is also to be reported ~~immediately~~ within two hours to a qualified medical professional for examination. These requirements are necessary to ensure timely and adequate notification of injury or suspected injury are made to the administrator and documented to remain consistent with title 22, section 80061.