

PROPOSED EMERGENCY REGULATION ORDER

Title 17. Public Health Division 2. Health and Welfare Agency Chapter 3. Community Services Subchapter 23. Community Crisis Homes and Subchapter 24. Enhanced Behavioral Supports Homes

Amend sections 59000, 59002, 59006, 59007, 59008, 59009, 59010, 59012, 59022, 59050, and 59072, title 17, California Code of Regulations (CCR), and adopt new articles 5.5 and 6.5 and new sections 59009.5, 59010.1, 59010.2, 59010.3, 59010.4, and 59010.5, title 17, CCR, to read as follows:

[NOTE: Amendments are shown in underline to indicate additions and ~~strikeout~~ to indicate deletions. The symbol “# # #” means that intervening text not proposed for amendment is not shown.]

Subchapter 23. Community Crisis Homes Article 1. Definitions

§ 59000. Definitions.

(a) The following definitions shall apply to the regulations used in this subchapter:

(a~~1~~) "Administrator" means the person defined in Title 22, California Code of Regulations, Section 80001(a)(2) who also meets the additional requirements of Section 59010.

(b~~2~~) "Assistant Behavior Analyst" means a person recognized by the national Behavior Analyst Certification Board as a Board Certified Assistant Behavior Analyst.

(c~~3~~) "Authorized Consumer Representative" means the parent or guardian of a child, ~~or~~ conservator of an adult, or person who is legally entitled to act on behalf of the consumer.

(d~~4~~) "Behavior Analyst" means a person recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst.

(5) "Behavioral Restraint" means the type of intervention defined in Health and Safety Code Section 1180.1 (a).

(6) “Child” means a person under the age of 18 placed in a community crisis home licensed as a group home by a regional center, a parent or guardian, or a public child placement agency with or without a court order.

(e7) “Clients' Rights Advocate” means the representative of the nonprofit agency with which the Department contracts for clients' rights advocacy services pursuant to Section 4433(b) of the Welfare and Institutions Code who is responsible for clients' rights assurances for persons with developmental disabilities.

(f8) “Consultant” means a person or group eligible for vendorization in accordance with Sections 54319 and 54342 and qualified by training, education, and/or experience that provide a service integral to a consumer’s Individual Behavior Supports Plan, as identified by the Individual Behavior Supports Team.

(g9) “Consumer” means ~~an individual~~ person who has been determined by a regional center to meet the eligibility criteria of Section 4512(a) of the Welfare and Institutions Code, and Sections 54000, 54001 and 54010, and for whom the regional center has accepted responsibility. Consumer is also known as “client.”

(h10) “Community Crisis Home” means an adult residential facility or a group home certified by the Department and licensed by the Department of Social Services that provides 24-hour nonmedical care to ~~individual~~ persons with developmental disabilities receiving regional center services and in need of crisis intervention services, who would otherwise be at risk of admission to a more restrictive setting. A Community Crisis Home may have a maximum capacity of up to eight consumers. A Community Crisis Home is eligible for, and must meet all the requirements for, vendorization as a residential facility by a regional center pursuant to the requirements of Division 2, Chapter 3, Subchapter 2.

(11) “Community Emergency Services” means law enforcement, crisis teams, or intensive transition services.

(12) “Containment” means a brief physical restraint of a person for the purpose of effectively gaining quick control of a person who is aggressive or agitated or who is a danger to self or others.

(i13) “Continuous Quality Improvement System” means a process to ensure systematic improvement of services to increase positive outcomes for the consumers being served.

(j14) “Crisis Intervention Services” means additional assessment, staffing, supervision, and other intensive services and supports to immediately address a consumer’s urgent or emergent abrupt onset of behavioral or other needs, which are beyond what is typically available in other community living arrangements. These services shall facilitate transition to a less restrictive community environment.

(15) “Culturally competent and linguistically appropriate” means the ability to reach underserved cultural populations and address specific barriers related to racial, ethnic, cultural, language, gender, age, economic, or other disparities in mental health services access, quality, and outcomes.

(~~k~~16) "Day" means calendar day unless otherwise stated.

(~~f~~17) "Department" means the Department of Developmental Services.

(~~m~~18) “Direct Care Staff” means facility staff that personally provide direct supervision and special services to consumers, as defined in Section 56002(a). The term includes the licensee, the administrator, management, supervisory, and lead staff during that time when they are providing direct supervision and special services to consumers.

(4A) Direct supervision and special services shall include “care and supervision” as defined in Title 22, California Code of Regulations, Section 80001(c)(3).

(19) “Dual Agency Client” means foster children in temporary custody of the child welfare agency under Section 319 of the Welfare and Institutions Code or under the jurisdiction of the juvenile court pursuant to Section 300, 450, 601, or 602 of the Welfare and Institutions Code who are also either a consumer of regional center services, or who are receiving services under the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) but who are under three years of age and have not yet been determined to have a developmental disability.

(~~n~~20) “Emergency Intervention(s)” means the intervention(s) used with consumers during the time they present an imminent danger of serious injury to self or others, which cannot be prevented by the use of a less restrictive technique.

(~~e~~21) “Emergency Intervention Plan” means a written plan, which addresses the implementation of emergency interventions and the prevention of injury.

(22) “Extended Procedure” means restraint that lasts for more than 15 consecutive minutes.

(~~p~~23) "Facility Liaison" means the person, or his or her designee, assigned by the vendoring regional center as the principal coordinator between the regional center and the facility.

(24) “Functional Behavior Assessment” means a variety of systematic information-gathering activities 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.

(~~q~~25) "Health Care Professional" means a licensed registered nurse, nurse practitioner, physician assistant and/or a medical doctor, contracted or hired by the facility.

(~~f~~26) "Immediate Danger" means conditions which constitute an impending threat to the health and safety of a consumer and which require immediate action by the regional center to safeguard the health and safety of the consumers in the facility, and as defined in Section 56053.

(~~s~~27) "Individual Behavior Supports Plan" means the plan that: identifies and documents the intensive support and service needs of a consumer; details the strategies to be employed and services to be provided in order for the consumer to return to their previous placement or to an appropriate alternative community based environment; and includes the entity responsible for providing those services. This plan includes the requirements of Section 1180.4(a) of the Health and Safety Code.

(~~t~~28) "Individual Behavior Supports Team" means those individuals who participate in the development, revision and monitoring of the Individual Behavior Supports Plan for consumers residing in a Community Crisis Home.

(~~4~~A) The team shall, at a minimum, be composed of the following individuals:

(~~A~~)1. Consumer and, where applicable, authorized consumer representative;

(~~B~~)2. Regional center service coordinator and other regional center representative as necessary;

(~~C~~)3. Community Crisis Home administrator;

(~~D~~)4. Regional center clients' rights advocate, unless the consumer objects on his or her own behalf to participation by the clients' rights advocate; and

(~~E~~)5. Community Crisis Home Qualified Behavior Modification Professional.

(~~2~~B) The team may also include:

(~~A~~)1. Regional center's mobile crisis team;

(~~B~~)2. Representative(s) from the consumer's prior residence and/or identified alternative future community-based residential setting, as applicable;

~~(C)~~3. Health Care Professional;

4. Representative(s) from the responsible local education agency or agencies; and

~~(D)~~5. Any individual(s) deemed necessary by the consumer, or, where applicable, his or her authorized consumer representative, if any, for developing a comprehensive and effective Individual Behavior Supports Plan.

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

~~(430)~~ "Individual Program Plan" (IPP) means a written plan that is developed by a regional center planning team, in accordance with the provisions of Sections 4646 and 4646.5 of the Welfare and Institutions Code.

(31) "Intensive Transition Services" means services offered to individuals with intellectual and/or developmental disabilities and co-occurring psychiatric disabilities before, during and after transition from a highly restrictive setting to a less restrictive living situation in the community.

(32) "Licensee" means the adult, firm, partnership, association, corporation, county, city, public agency, or other governmental entity having the authority and responsibility for the operation of a licensed community care facility.

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

(v34) "Planning Team" refers to the planning team defined in subsection (j) of Section 4512 of the Welfare and Institutions Code, which develops and reviews a consumer's IPP through the planning process described in Sections 4646 and 4646.5 of the Welfare and Institutions Code.

(35) "Prone restraint" means that the consumer is restrained in the facedown position.

(w36) "Qualified Behavior Modification Professional" means ~~an individual~~ person with a minimum two years of experience in designing, supervising, and implementing behavior modification services ~~who is as~~ one of the following:

(4A) An Assistant Behavior Analyst certified by the national Behavior Analyst Certification Board as a Certified Assistant Behavior Analyst;

(2B) A Behavior Analyst certified by the national Behavior Analyst Certification Board as a Certified Behavior Analyst;

(3C) A Licensed Clinical Social Worker, pursuant to Sections 4996-4998.5 of the Business and Professions Code;

(4D) A Licensed Marriage and Family Therapist, pursuant to Sections 4980-4984.7 of the Business and Professions Code;

(5E) A psychologist, licensed by the California Board of Psychology; or

(6F) A professional with California licensure, which permits the design of behavior modification intervention services.

(x37) "Registered Behavior Technician" means ~~an individual~~ person recognized by the national Behavior Analyst Certification Board as a Registered Behavior Technician.

(38) "Seclusion" means the involuntary confinement of a consumer alone in a room or an area from which the consumer is physically prevented from leaving. "Seclusion" does not include a "time-out".

(39) "Supine restraint" means the consumer is restrained in a face up position.

(y40) "Substantial Inadequacy" means conditions posing a threat to the health and safety of any consumer, that are not considered an immediate danger as specified in Section 56053, and as defined in Section 56054.

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

(42) “Trauma-Informed Care” means an approach that involves an understanding of the impact of adverse experiences and responds to symptoms of chronic interpersonal trauma and traumatic stress that can arise across the lifespan of a consumer. The approach includes integrating this understanding into facility policies, procedures, staff training, and a consumer’s assessments and plans.

(z43) “Working Day” means any day that is not a Saturday, Sunday or holiday as specified in Sections 6700 and 6701 of the Government Code.

NOTE: Authority cited: Section 4698.1, Welfare and Institutions Code. Reference: Sections 4698 and 4698.1, Welfare and Institutions Code; Sections 1180.1, 1180.4 and 1567.81, Health and Safety Code.

Article 3. Facility Program Plan

§ 59002. Facility Program Plan.

(a) An applicant for Community Crisis Home certification shall develop a facility program plan that includes the following:

- (1) Number of consumers to be served;
- (2) Consumer admission criteria and procedures;
- (3) A description of how the facility will ensure that appropriate services and supports are provided at the time of admission to meet the consumer’s immediate needs pending update of the Individual Behavior Supports Plan, including emergency interventions and admission of consumers with restricted health care conditions as referenced in Title 22, California Code of Regulations, Sections 80092 and 80092.1;
- (4) A description of how the facility is going to meet all the diverse needs of the population to be served and expedite the admission of consumers;
- (5) An organizational chart for the staff in the facility and, if applicable, for the organization;
- (6) A description of consumer services to be provided, including the instructional methods and techniques to be utilized;

(7) A description of how the licensee will ensure all direct care staff and consultants are competent to perform their assigned duties, including, but not limited to:

- (A) A description of the consultant disciplines, qualifications, and hours to be utilized;
- (B) A description of staff qualifications and a duty statement for each staff position;
- (C) A sample staff schedule; and
- (D) Staff training plan;

(8) A description of the facility's emergency procedures, including, but not limited to:

- (A) The facility's emergency evacuation procedures, including procedures for evacuation when delayed egress and secured perimeters are in use pursuant to Sections 56068-56074, if permitted;
- (B) The type, location, and approximate response time of emergency medical services;
- (C) A description of how regularly scheduled fire and earthquake drills will be conducted on a schedule of no less than every three months, with the drills conducted on alternating work shifts so that drills are conducted during the day and evening hours; and

(D) ~~An~~ The Emergency Intervention Plan that shall contain;

1. Procedures for documenting each use of physical restraint in the consumer's record;

2. Procedures for reviewing each use of physical restraint with the consumer and authorized representative or parent;

3. Procedures for accessing community emergency services, if the use of emergency interventions is not effective or appropriate;

a. The facility's procedures concerning when and how to involve law enforcement in response to an incident at the facility must be included in the plan;

4. Requirements in Title 22, California Code of Regulations, section 85122 for a Community Crisis Home licensed as an adult residential facility and section 84322 for a Community Crisis Home licensed as a group home; and

5. An outline of procedures to ensure the safety of the consumer and staff if an exception to the 15-minute restraint time limit is required.

(9) An explanation of how the Community Crisis Home will ensure the protection of consumers' personal rights, including those specified in Sections 50500-50550;

(10) The methodology used to measure consumer progress, which includes:

(A) Types of data to be collected and reported, including all required by current statute;

(B) Data collection systems;

(C) Frequency of data collection; and

(D) Methods and intervals for summarizing data and reporting on progress made;

(11) Consumer exit criteria;

(12) A description of the proposed facility, including size, layout, and location;

(13) A description of the facility's Continuous Quality Improvement System, including, but not limited to, how:

(A) Consumers will be supported to make choices, including community integration;

(B) Consumers will be supported to exercise rights;

(C) Changing needs of consumers will be addressed;

(D) Consumers will receive prompt and appropriate routine and specialized medical services;

(E) Consumer Individual-risk will be managed and mitigated;

(F) Medication will be safely managed and documented; and

(G) Staff turnover will be mitigated; ~~and~~

(14) The identification of a 24-hour crisis intervention team and transportation plan that will be utilized by the facility as defined in Section 4648(a)(10) of the Welfare and Institutions Code;

(15) A description of how the facility will ensure the application of emergency intervention techniques and the use of restraint or containment in Community Crisis Homes;

(16) A description of how the facility licensed as a group home will ensure compliance with the placement duration limitations set forth in Section 1567.81(d) of the Health and Safety Code governing placements of dual agency clients; and

(17) A description of how the facility will meet all the diverse needs of the population to be served with a culturally competent and linguistically appropriate prevention and intervention program.

NOTE: Authority cited: Section 4698.1, Welfare and Institutions Code. Reference: Sections 4648, 4698 and 4698.1, Welfare and Institutions Code; and Sections 1180.4 and 1567.81, Health and Safety Code.

Article 4. Personnel

§ 59006. Staffing Requirements.

(a) At least one lead staff person and one direct care staff person must be on duty at all times when a consumer is in the facility and under the supervision of the facility staff. Staffing beyond this minimum shall be determined by each consumer's ~~Individual Behavioral~~ Supports Team and is reflected on the approved DS 6024 (Revised ~~10/2016~~ 5/2020) form completed pursuant to Section 59022(b).

(b) Direct care staff who have not completed the on-site orientation and training as required by Section 59007 (a), (b), (c) and ~~(d)~~ must be under the direct supervision and observation of a direct care lead staff person who has completed all the requirements of Section 59007 (a), (b), (c) and ~~(d)~~, while caring for consumers.

(c) The ~~administrator~~ licensee shall assign a Qualified Behavior Modification Professional to each consumer. A minimum of six hours per month of behavioral consultation, which includes review, implementation, and training of direct care staff on behavior assessments and behavior interventions, must be provided for each consumer by a Qualified Behavior Modification Professional. This time must be documented in the consumer file.

(d) In addition to the hours required in subsection (c), the ~~facility administrator~~ licensee shall ensure provision of a minimum of six consultant hours per month per consumer, which must be appropriate to meet individual consumer service needs.

(e) Each Community Crisis Home must have an administrator present and on duty a minimum of 20 hours per week ~~per~~ at each facility to ensure the effective operation of the facility.

(f) In consultation with the Individual Behavior Supports Team, the regional center shall require a Community Crisis Home to provide additional, professional, administrative, or direct care staff whenever the regional center determines that additional personnel are needed to meet the service needs and provide for the health and safety of consumers.

NOTE: Authority cited: Section 4698.1, Welfare and Institutions Code. Reference: Section 4698.1, Welfare and Institutions Code.

§ 59007. Staff Training.

(a) The ~~administrator~~ licensee shall ensure that each direct care staff person completes a minimum of 32 hours of on-site orientation within the first 40 hours of employment. The on-site orientation must include ~~the training required pursuant to Title 22, California Code of Regulations, Section 80065(f), and must include~~, but is not be limited to, the following:

(1) Training required pursuant to Title 22, California Code of Regulations, Section 85365;

~~(2)~~ The specialized needs of each of the consumers;

~~(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; and

(D) Trauma-informed care;

~~(34)~~ Consumers' rights and protections pursuant to Sections 50500-50550, ~~and~~ Title 22, California Code of Regulations, Section 80072, Section 84072 for a Community Crisis Home licensed as a group home, and Section 85072 for a Community Crisis Home licensed as an adult residential facility;

(45) The facility's program plan;

(56) Implementation of each consumer's Individual Behavior Supports Plan and ~~IPP~~Individual Program Plan;

(67) Health and emergency procedures, including fire safety;

(78) The disaster and mass casualty plan required in Title 22, California Code of Regulations, Section 80023, including emergency evacuation and exit procedures when secured perimeters/delayed egress are approved and in use;

(89) Identification and reporting of Special Incidents, as required by Section 54327(b);

(910) Identification and reporting of suspected consumer abuse and neglect; and

(4011) Assistance to consumers with prescribed medications, including required documentation.

(b) The licensee of a group home shall comply with the training requirements of Title 22, California Code of Regulations, Section 84065(i).

~~(bc)~~ In addition to staff receiving the on-site orientation, within the first 80 hours of employment, the licensee shall ensure that direct care staff receive a minimum of 16 hours of emergency intervention training, including, for group home staff, training on the emergency intervention requirements of Title 22, California Code of Regulations, Sections 84300 through 84369. The training must include the techniques the licensee will use to prevent injury and maintain safety regarding consumers who are a danger to self or others and must emphasize positive behavioral supports and techniques that are alternatives to physical restraints, pursuant to Title 22, California Code of Regulations, Sections ~~85322 and 85365~~ 84365 for a Community Crisis Home licensed as a group home and Section 85165 for a Community Crisis Home licensed as an adult residential facility.

(ed) A direct care staff person may not implement emergency interventions prior to successfully completing the training required in subsection (bc).

~~(de)~~ ~~In addition to the training required by subsections (a) and (b), t~~The administrator licensee shall ensure that, prior to providing direct consumer care, direct care staff receives hands-on training in first aid and cardiopulmonary resuscitation by a certified instructor.

(1) Direct care staff shall maintain current certifications in first aid and cardiopulmonary resuscitation. ~~The administrator licensee~~ licensee shall maintain the certifications in facility personnel records.

(2) Cardiopulmonary resuscitation certification must be renewed annually.

(ef) ~~The administrator~~ licensee shall ensure that direct care staff complete the competency-based training required by Sections 4695.2(a) and (d) of the Welfare and Institutions Code and pursuant to Section 56033(b)-(g). Direct care staff shall successfully complete both segments of the competency-based training and passage of the competency test, or pass the challenge test, prior to or within one year of employment at the Community Crisis Home.

NOTE: Authority cited: Section 4698.1, Welfare and Institutions Code. Reference: Sections 4695.2 and 4698.1, Welfare and Institutions Code.

§ 59008. Continuing Education.

(a) In addition to the training requirements in Section 59007, ~~the administrator~~ licensee shall ensure that direct care staff complete a minimum of 250 hours of continuing education on an annual basis covering, but not limited to, the subjects specified in Section 59007(a).

(b) For Community Crisis Homes licensed as group homes, 10 of the continuing education hours required by Title 22, California Code of Regulations, Section 84065(j) may be counted towards the required hours in subsection (a).

~~(bc)~~ The administrator licensee shall require that direct care staff complete additional continuing education, as necessary, to ensure the continued health and safety of each consumer.

~~(ed)~~ Successful completion of the competency-based training and passage of the competency test required by Section 59007 ~~(ef)~~ satisfies the direct care staff continuing education requirements specified in subsection (a) for the year in which the training is satisfactorily completed.

~~(de)~~ In addition to the training requirements in subsection (a), the administrator licensee shall ensure that direct care staff renew the 16 hours of emergency intervention training required in Section 59007 ~~(bc)~~ annually.

(f) 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.

(g) In addition to the training requirements in subsection (a), the administrator shall ensure a minimum of 20 minutes of monthly refresher staff training focused on one of the emergency intervention and de-escalation strategies including the techniques the licensee will use to prevent injury and maintain safety 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.

(eh) Requirements to maintain certification or licensure, as required in Sections 59004 and 59005, may be utilized to meet fifty percent of the continuing education hours required in Section 59008(a) when the subject matter is related to the population served for the year in which the training is satisfactorily completed.

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code.
Reference: Sections 4698 and 4698.1, Welfare and Institutions Code.

Article 5. Admission

§ 59009. Consumer Admission.

(a) Prior to a consumer's admission, the regional center shall assess the consumer's need for crisis intervention services and include the assessment information in the documents provided to the administrator or the person responsible for admissions.

(b) At admission, the facility administrator shall initiate compilation of supplied information and data collection.

(c) Within 24 hours of admission:

(1) The administrator or the person responsible for admissions shall obtain a copy of a medical assessment of the consumer that, at a minimum, meets the requirements of Title 22, California Code of Regulations, Section 80069 (c) and (d) and shall put the medical assessment into the consumer's file.

(2) The regional center shall release written information about the consumer to the administrator or the person responsible for admissions pursuant to Section 56017 (b)(1)-(9).

(3) The facility's health care professional, within their scope of practice, shall complete an assessment that includes, but is not limited to:

(iA) The applicable provisions of Section 1180.4 of the Health and Safety Code;

(iiB) Review of current health status and medication(s) and the applicable referral(s) shall be initiated as clinically indicated; and

(~~iii~~C) Necessary services/supports to meet the immediate needs of the consumer.

(d) The assessments and compiled information from (a), (b) and (c) shall be utilized to initiate a written Individual Behavior Supports Plan and will be immediately shared with the staff and consultants, as applicable.

(e) Within 7 days of admission:

(1) The administrator shall ensure completion of additional assessments or referrals, which must include, but is not limited to:

(A) Consultation with the previous provider, if applicable;

(B) Consultation with family or responsible party;

(C) Identification of the potential consultants and resources needed by the crisis home, to ensure the consumer's needs are met and goals are attainable; and

(D) When deemed applicable by the health care professional:

~~(i)~~1. A behavioral health evaluation;

~~(ii)~~2. A substance use disorder evaluation;

~~(iii)~~3. A thorough medical evaluation to rule out a physical cause for the crisis; and

~~(iv)~~4. A dental consultation.

(2) The administrator, with input from the Individual Behavior Supports Team, shall ensure completion of ~~a~~:

(A) A written Functional Behavior Assessment; and

(B) A written Individual Behavior Supports Plan.

(f) The administrator, with input from the Individual Behavior Supports Team, shall ensure weekly review of the written Individual Behavior Supports Plan and update the plan as indicated.

(g) The regional center shall notify the clients' rights advocate for the regional center when a consumer is admitted to a Community Crisis Home. The clients' rights advocate shall be entitled to participate in Individual Behavior Supports Team meetings unless the consumer objects on his or her own behalf.

NOTE: Authority cited: Section 4698.1, Welfare and Institutions Code. Reference: Section 4698.1, Welfare and Institutions Code.

Article 5.5. Transition/Discharge

§ 59009.5. Transition/Discharge from the Community Crisis Home.

(a) Transition planning shall begin at admission and include the requirements in Section 59010(d)(10).

(b) To obtain the Department's initial approval for additional day(s) beyond 18 months in a Community Crisis Home licensed as an adult residential facility and 12 months for a Community Crisis Home licensed as a group home, pursuant to Section 59022

(b)(3)(D), the regional center executive director or designee must submit a written request to the Department. The written request must include the following information:

(1) Consumer initials, Unique Client Identifier number, Community Crisis Home facility name, and the date of admission into the Community Crisis Home;

(2) The initial Functional Behavior Assessment and Individual Behavior Supports Plan including the transition plan;

(3) The current Individual Behavior Supports Plan including the transition plan;

(4) Historical and current graphed data of consumer's target behavior(s) for visual analysis since entering the Community Crisis Home; and

(5) Explanation of why residing in the Community Crisis Home for additional day(s) is necessary to protect the consumer's health or safety.

(c) Department approval for additional day(s) will be granted for periods of no more than 30 days at a time.

(d) Following the Department's initial approval, written requests for additional day(s) will be reviewed monthly thereafter. The written request must include the following information:

(1) The latest information updated with the historical and current graphed data of 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 since the last written request;

(2) An updated Individual Behavior Supports Plan and the transition plan with an explanation of barriers that have prevented stabilization and/or transition out of the Community Crisis Home; and

(3) An explanation of why residing in the Community Crisis Home for additional day(s) is necessary to protect the consumer's health or safety.

(e) The licensee shall provide a written summary of the consumer's developmental, behavioral, socialization, health, and nutritional status at the time of discharge. A copy of the final summary, in addition to the current Functional Behavior Assessment and Individual Behavior Supports Plan, must be provided to the next placement at the time of discharge.

NOTE: Authority cited: Section 4698.1, Welfare and Institutions Code. Reference: Section 4698.1, Welfare and Institutions Code.

Article 6. Individual Behavior Supports Plan

§ 59010. Individual Behavior Supports Plan.

(a) The facility administrator is responsible for coordinating the development and subsequent updating of each consumer's Individual Behavior Supports Plan.

(b) The Individual Behavior Supports Plan must be initiated immediately at the consumer's admission.

(c) Individual Behavior Supports Team members shall provide their input for inclusion in the updated Individual Behavior Supports Plan within 7 days of the consumer's admission.

(d) The consumer's Individual Behavior Supports Plan must be function-based, evidence-based, and target functionally equivalent replacement behaviors, address the consumer's individual needs and include a description of the following:

(1) Baseline of behaviors, needs or skill level;

(2) Target behaviors, skills and attainable goals;

(3) Function of behaviors;

(4) Desired outcomes and replacement behaviors;

(5) Intervention strategies, including antecedent strategies, instructional strategies and consequence strategies;

- (6) Entity responsible;
- (7) Environmental changes;
- (8) Timelines/review dates;
- (9) Data collection/monitoring progress/evaluation methods;
- (10) A written plan of transition to return to the previous placement or another appropriate community placement. The Individual Behavior Supports Team must review the transition plan at least monthly. The transition plan must include:

(A) Measurable transition objectives and criteria, including baseline measures;

(B) Projected service and support needs;

(C) Projected timeline for stabilization; and

(D) A plan for cross-training needs; and

- (11) Emergency interventions that may be necessary.

(e) The facility administrator shall submit the Individual Behavior Supports Plan and any updates to the vendoring and/or placing regional center service coordinator and, unless the consumer objects on his or her own behalf, to the clients' rights advocate.

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code.
Reference: Section 4698.1, Welfare and Institutions Code.

Article 6.5. Restraint and Containment

§ 59010.1. Prohibited Emergency Interventions.

Community Crisis Homes shall prohibit the use of prone restraint, supine restraint, and seclusion emergency interventions as described in Title 22, California Code of Regulations, Section 85102 for a Community Crisis Home licensed as an adult residential facility and Section 84300.1 for a Community Crisis Home licensed as a group home.

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code.
Reference: Sections 4698 and 4698.1, Welfare and Institutions Code; and Section 1180.4, Health and Safety Code.

§ 59010.2. Time Limits on the Use of Physical Restraint.

(a) Physical restraint shall not continue longer than necessary to control the behavior for which the restraint was employed. The use of restraint must be discontinued as soon as the consumer's behavior no longer poses imminent danger of serious injury to self or others.

(b) Physical restraint shall not be used as an extended procedure, except as specified in Title 22, California Code of Regulations, Sections 84322 (f) for Community Crisis Homes licensed as group homes and 85122 (e) for Community Crisis Homes licensed as adult residential facilities and only with administrator approval. The following requirements must be met to continue use of physical restraint:

(1) The person who approves the continuation of physical restraint must be a person other than the person who restrained the consumer;

(2) The person who visually checks the consumer after 15 minutes to ensure the consumer is not injured and that the consumer's personal needs, such as access to toilet facilities, are being met, must be a person other than the person restraining the consumer; and

(3) After the initial 15 minutes, the person who approves the continuation of the physical restraint shall observe the consumer's behavior while the consumer is being restrained to determine whether continued use of the physical restraint is justified pursuant to subsection (a);

(c) Within 24 hours, the Administrator must document in the consumer's record written approval for the continued use of physical restraint beyond 15 consecutive minutes, including an explanation of why it is necessary for physical restraint to extend beyond 15 consecutive minutes and a description of the consumer's behavior that posed an imminent danger of serious injury to self or others.

(d) Staff must respond promptly and appropriately to a consumer's request for services and assistance with repositioning the consumer when appropriate.

(e) If a physical restraint lasts longer than 30 consecutive minutes, the consumer in a physical restraint must be visually checked and documented every 15 minutes until the physical restraint is terminated, to ensure the consumer is not injured, that consumer's personal needs are being met, and that the continued use of the physical restraint is justified pursuant to subsection (a):

(1) This visual check must be documented in the consumer's record at the time of the visual check;

(2) The person conducting the visual check must not be the person who restrained the consumer;

(f) If a physical restraint lasts longer than 60 minutes, in addition to the requirements set forth in subsection (e), the following must occur:

(1) The Administrator must evaluate whether the facility has adequate resources to meet the consumer's needs and reevaluate at 30-minute intervals thereafter;

(2) Physical restraint used in excess of 60 consecutive minutes must be approved, every 30 minutes, in writing by the Administrator; and

(3) The consumer's authorized representative must be notified, and if the consumer is a child, the child's authorized representative must approve and that approval must be documented in the consumer's record.

(g) If a physical restraint exceeds two (2) hours, the consumer must be allowed to access liquids, meals and toileting and range of motion exercises at regular intervals not exceeding two (2) hours.

(h) Physical restraint must not exceed four (4) cumulative hours in a 24-hour period.

(1) If a physical restraint last 4 cumulative hours the facility must inform the consumer's authorized representative and contact community emergency services to determine whether or not the consumer should be removed from the facility.

(i) Within 48 hours of a physical restraint of 60 cumulative minutes or longer, in a 24-hour period, the consumer's Individual Behavior Supports Plan must be reviewed by the Individual Behavior Supports Team and modified as needed.

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code;. Reference: Sections 4698 and 4698.1, Welfare and Institutions Code; and Section 1180.4, Health and Safety Code.

§ 59010.3. Assessment of Potential Physical Injury After Each Use of Physical Restraint.

(a) Within 30 minutes after termination of each use of physical restraint:

(1) The Administrator or Administrator's designee shall conduct an in-person assessment of the consumer's immediate needs and physical well-being;

(A) If there is physical injury or suspected physical injury an assessment by a qualified medical professional is required;

(2) The Administrator or Administrator's designee shall conduct an in-person assessment of the consumer's psychological well-being and the need for emotional support;

(A) If there is psychological trauma or suspected psychological trauma, they shall be treated for trauma.

(b) Within 4 hours after each use of physical restraint:

(1) If medical attention is sought, it must be documented in the consumer's record, and reported to the Department; and

(2) The Administrator or Administrator's designee shall assess the physical and psychological well-being of the staff involved in the physical restraint as well as of anyone who observed the physical restraint and provide support as needed.

(c) 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 within 2 hours. A written incident report must be submitted to the Department of Social Services and the regional center as specified by Title 22, California Code of Regulations, Section 80061. The regional center shall then submit the report to the Department. Suspected serious bodily injury, as defined in Welfare and Institutions Code Section 15610.67, is to be reported within two (2) hours to a qualified medical professional for examination as required by Welfare and Institutions Code Section 15630(b)(1).

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code. Reference: Sections 4698 and 4698.1, Welfare and Institutions Code; and Section 1180.4, Health and Safety Code.

§ 59010.4. Debriefing After the Use of Physical Restraint.

(a) A facility must conduct a debriefing as quickly as possible but no later than 24 hours following every incident involving the use of physical restraint.

(b) Attendees of the debriefing shall include, at minimum,

(1) The consumer who was physically restrained unless the consumer voluntarily declines;

(2) The authorized consumer representative, if applicable;

(3) The staff involved in the incident;

(4) An Administrator or Administrator's designee; and

(5) The facility's Qualified Behavior Modification Professional.

(c) The debriefing shall also include individuals requested by the consumer.

(d) The debriefing shall include:

(1) Assisting the consumer with identifying the precipitant of the incident and suggest methods of more safely and constructively responding to the incident;

(2) Assisting the staff in understanding the precipitants to the incident, and to develop alternative methods of helping the consumer avoid or cope with those incidents;

(3) Identifying what led to the incident and what factors contributed to the incident leading to the use of restraint;

(4) Assessing alternative methods of responding to the incident that may have avoided the use of physical restraint;

(5) Evaluating whether staff used emergency interventions consistent with the facility Emergency Intervention Plan, the Individual Behavior Supports Plan, Individualized Emergency Intervention Plan, and staff training;

(6) Devising treatment interventions to address the root cause of the incident, its consequences, and modify the Individual Behavior Supports Plan accordingly;

(7) Evaluating whether the consumer was in physical restraint for the least amount of time necessary;

(8) Evaluating the effectiveness of less restrictive de-escalation strategies that were attempted and if they were not effective or were counterproductive that they are discontinued;

(9) Determining whether the consumers physical and psychological well-being and right to privacy were addressed appropriately;

(10) Considering treatment for any trauma that may have been experienced by the consumer as a result of the incident;

(11) Identifying alternative ways of helping the consumer avoid or cope with difficult situations such as those that led to the use of physical restraint; and

(12) Identifying the need to do a new Functional Behavior Assessment, revise or refine the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan, retrain staff, and/or investigate risk factors.

(e) Documentation of the debriefing meeting must include:

(1) Findings from the activities in subsection (d)(1)-(12);

(2) Any revisions needed to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan to better serve the consumer;

(3) The consumer's refusal to participate in the debriefing activities, if applicable;

(4) With the express consent of the person questioned, or his/her personal representative if that person is incapacitated, documentation of the physical and psychological well-being of the person who observed the physical restraint; and

(5) Evidence that less restrictive, nonphysical strategies were attempted first and without success.

(f) If physical restraint is used on more than three occasions within a three-month period and/or the recurrence of the dangerous behavior can be anticipated, the Individual Behavior Supports Team shall meet and discuss the consumer's Individual Behavior Supports Plan, ongoing support and transition needs, and alternatives to physical restraint.

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code. Reference: Sections 4698 and 4698.1, Welfare and Institutions Code, and Section 1180.4, Health and Safety Code.

§ 59010.5. Restraint Data Reporting.

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

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code; Section 1180.2, Health and Safety Code. Reference: Sections 4698 and 4698.1, Welfare and Institutions Code.

Article 7. Records Maintenance

§ 59012. Consumer Files.

Each facility shall maintain individual consumer files at the facility, available on site, which may include electronic records, that include at least the following:

- (a) Medical assessment required in Section 59009 (b)(1);
- (b) Individual Behavior Supports Plans;
- (c) Emergency contact information;
- (d) Current ~~IPP~~ Individual Program Plan;
- (e) Special incident reports, pursuant to Section 54327;
- (f) Data collection, including, but not limited to, progress notes, professional/consultant visits and interventions/outcomes; ~~and~~
- (g) Record of medications administered, including the initials of the staff providing assistance; ~~;~~
- (h) Functional Behavior Assessment(s) required by Section 59009(e)(2)(A);
- (i) Debrief documentation required by Section 59010.4(e); and
- (j) Any other records containing current emergency or health-related information for current consumers.

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code.
Reference: Sections 4698 and 4698.1, Welfare and Institutions Code.

Article 11. Rates

§ 59022. Establishment of Rates.

- (a) Community Crisis Home Facility Component – Service Code 902.

(1) A Community Crisis Home administrator shall complete one Department form DS 6023 (Revised ~~10/2016~~15/2020) entitled "Rate Development - Facility Costs" for the facility.

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(b) Community Crisis Home Individualized Services and Supports Component – Service Code 903.

(1) A Community Crisis Home shall complete one Department form DS 6024 (Revised ~~10/2016~~5/2020) entitled “Rate Development - Individual Costs Associated with Residency” for each consumer to establish the consumer’s individual monthly rate while placed at the facility.

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(3) Individualized services and supports rate payment:

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(D) If the consumer resides at ~~the~~ a Community Crisis Home licensed as an adult residential facility beyond 18 months or at a Community Crisis Home licensed as a group home beyond 12 months, any additional day(s) must be approved by the Department and reviewed monthly thereafter.

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(f) Department forms DS 6023 Rate Development – Facility Costs (Revised ~~10/2016~~5/2020), DS 6024 Rate Development – Individual Costs Associated with Residency (Revised ~~10/2016~~5/2020) and DS 6028 Community Crisis Home – Rate Development Individual Costs Associated with Transition (New 10/2016) are hereby incorporated by reference.

NOTE: Authority cited: Sections 4698 and 4698.1, Welfare and Institutions Code.
Reference: Sections 4698 and 4698.1, Welfare and Institutions Code.

Subchapter 24. Enhanced Behavioral Supports Homes

Article 1. Definitions

§ 59050. Definitions.

The following definitions shall apply to the regulations used in this subchapter:

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

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Note: Authority cited: Section 4684.86, Welfare and Institutions Code. Reference: Sections 4684.80 and 4684.86, Welfare and Institutions Code.

Article 11. Rates

§ 59072. Establishment of Rates.

(a) Enhanced Behavioral Supports Home Facility Component – Service Code 900.

(1) An Enhanced Behavioral Supports Home shall complete one Department form DS 6023 (~~Revised 10/2016~~5/2020) entitled "Rate Development - Facility Costs" for the facility, incorporated herein.

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(b) Enhanced Behavioral Supports Home Individualized Services and Supports Component - Service Code 901.

(1) An Enhanced Behavioral Supports Home shall complete one Department form DS 6024 (~~Revised 10/2016~~5/2020) entitled "Rate Development - Individual Costs Associated with Residency", incorporated herein, for each consumer to establish the consumer's individual rate.

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Note: Authority cited: Sections 4684.81 and 4684.86, Welfare and Institutions Code. Reference: Sections 4684.81 and 4684.86, Welfare and Institutions Code.