

DEPARTMENT OF DEVELOPMENTAL SERVICES

INITIAL STATEMENT OF REASONS

(Government Code § 11346.2(b))

**Proposed Amendments to the Regulations for Community Crisis Homes and
Enhanced Behavioral Supports Homes**

**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**

INTRODUCTION AND BACKGROUND

Pursuant to the Lanterman Developmental Disabilities Services Act (Lanterman Act), Welfare & Institutions (W&I) Code, Section 4500 et seq., people with developmental disabilities, as defined in W&I Code, Section 4512(a), receive, as an entitlement, services and supports based on their individual needs and choices. The Department of Developmental Services (Department) is responsible for administering the Lanterman Act.

Under the Lanterman Act, California provides community-based services to more than 250,000 children and adults with developmental disabilities and their families through a statewide system of 21 regional centers. Regional centers are private, nonprofit agencies under contract with the Department for the adoption of services and supports to people with developmental disabilities. As a single point of entry, regional centers provide diagnostic and assessment services to determine eligibility; convene person-centered planning teams to develop an Individual Program Plan (IPP) for each eligible consumer; and either purchase or obtain from generic agencies appropriate services and supports for each consumer in accordance with his or her IPP. In addition, the Department administers three state developmental centers and one community-based state-operated facility serving approximately 1,000 individuals.

The Lanterman Act was enacted to reduce institutionalization of people with developmental disabilities and keep them within their home communities. Under the Lanterman Act, people with developmental disabilities have a right to treatment and habilitation services and supports in the least restrictive environment. Toward this end, the Lanterman Act states that “[a]n array of

services and supports should be established which is sufficiently complete to meet the needs and choices of each person with developmental disabilities, regardless of age or degree of disability, and at each state of life and to support their integration into the mainstream life of the community" (W&I Code, § 4501). 2012 Budget Trailer Bill language (Assembly Bill 1472) imposed a moratorium on admissions into state developmental centers and closure plans for the remaining state developmental centers arose from 2015 Budget Trailer Bill language (Senate Bill (SB) 82). With the reduced reliance on costly and restrictive institutional and out-of-state placements, there is a need to increase community capacity and develop new alternatives, particularly for the most difficult-to-serve consumers, including those with challenging behaviors.

The vast majority of people with developmental disabilities live and receive services and supports in the community; however, many still reside in restrictive institutional settings, including state developmental centers and locked mental health facilities, while others receive services in out-of-state placements. This includes individuals who are difficult to serve in the community due to behaviors which are difficult to manage. To continue the development of alternative living arrangements for people with developmental disabilities, SB 856,

Chapter 30, Statutes of 2014 (SB 856), requires the Department to develop Enhanced Behavioral Supports Homes to reduce reliance on institutional living arrangements for, or out of state placements of, people with developmental disabilities who receive services and supports pursuant to the Lanterman Act but are difficult to serve in the community with currently available resources and living options. Many consumers who require intensive services and supports due to challenging behaviors that cannot be managed in a community setting without the availability of enhanced behavioral services and supports, and who are now in more restrictive placements, including developmental centers, locked mental health facilities and out-of-state placements, or are at risk of institutionalization, will be afforded more appropriate, less restrictive community-based alternatives with the development of Enhanced Behavioral Supports Homes.

As required by SB 856, Section 4684.86 of the W&I Code, the Department has promulgated emergency regulations, in Title 17, California Code of Regulations (CCR), Division 2, Chapter 3, Subchapter 24 (effective February 5, 2016), establishing program standards for Enhanced Behavioral Supports Homes. These standards include program plan requirements, staffing structure, staff qualifications and training, requirements and timelines for the completion and updating of consumers' Individual Behavior Supports Plans, admission and continued stay requirements, requirements for ensuring appropriate services and supports are provided at the time of admission, the rate methodology, and

assurances of consumer rights and protections. As required by SB 856, the emergency regulations were developed in consultation with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers.

To continue the development of alternative living arrangements, SB 856, (Committee on Budget and Fiscal Review, Chapter 30, Statutes of 2014), required the Department to develop the residential option of Community Crisis Homes, as well as Enhanced Behavioral Supports Homes. The Regulations for the Enhanced Behavioral Supports Homes were adopted and filed with the Secretary of State May 9, 2017.

The Legislature enacted, and the Governor signed SB 81, (Committee on Budget and Fiscal Review, Chapter 28, Statutes of 2019) which amended Health and Safety Code (H&SC), Sections 1180.4 and 1567.81 and W&I Code, Section 4698, related to community crisis homes and requires the Department to develop Community Crisis Homes regulations for children. The Community Crisis Homes are required by statute to be an alternative to placements such as an out-of-state placement, a general acute hospital, an acute psychiatric hospital, or an institution for mental disease. More and more children are being presented with needs associated with being served in a crisis residential model. Regularly, there are requests to the Department for statewide resources that can serve children in a crisis. However, quite often, there are few or no residential resources available for children in a crisis.

DESCRIPTION OF THE PROBLEM ADDRESSED

As part of the 2019-20 State Budget package, SB 81 amended and added numerous sections of law pertaining to Human Services, including amendments which require the Department to develop guidelines around the use of restraint or containment in Community Crisis Homes.

On June 25, 2021, the Department received approval for the Emergency Regulations and is now undertaking the regular rulemaking process to make the Children's Community Crisis Homes permanent with its Certificate of Compliance. Along with the endeavor to file the Certificate of Compliance for the Children's Community Crisis Homes regulations, the Department wanted to provide consistency by aligning the regulations for Enhanced Behavioral Supports Homes (EBSH) and including them with this rulemaking for the Community Crisis Homes regulations.

Sections Affected: Proposed amendments to Sections 59000, 59001, 59002, 59006, 59007, 59008, 59009, 59010, 59011, 59012, 59022, 59050, 59051, 59052, 59054, 59055, 59056, 59057, 59058, 59059, 59060, 59061, 59062, 59063, 59064, 59065, 59066, 59067, 59068, 59069, 59070, 59071 and 59072.

Proposed adoption of new Articles 5.5 and 6.5 and new Sections 59009.5, 59010.1, 59010.2, 59010.3, 59010.4, and 59010.5, Subchapter 23, Title 17, CCR, for CCH.

Proposed adoption of new Articles 5.5 and 6.5 and new Sections 59060.1, 59060.2, 59060.3, 59060.4, and 59060.5, Subchapter 24, Title 17, CCR, for EBSH.

The Department has reorganized the EBSH regulations to mirror the arrangement of the CCH regulations. The Department proposes to renumber Sections 59054 to 59060, 59055 to 59063, 59056 to 59059, 59057 to 59064, 59058 to 59065, 59059 to 59066, 59060 to 59054, 59061 to 59055, 59062 to 59056, 59063 to 59057, 59064 to 59058, 59065 to 59067, 59066 to 59068, 59067 to 59069, 59068 to 59070, 59069 to 59071, 59070 to 59061, 59071 to 59062. Furthermore, the Department proposes to renumber Articles 4 to 6, 5 to 8, 6 to 5, 7 to 9, 8 to 4, 9 to 10, and 10 to 7. The crosswalk below identifies the proposed changes and allows for a side-by-side comparison:

| Subchapter 23. Community Crisis Homes | Subchapter 24. Enhanced Behavioral Supports Homes |
|--|---|
| Article 1. Definitions | Article 1. Definitions |
| § 59000. Definitions. | § 59050. Definitions. |
| Article 2. General Requirements | Article 2. General Requirements |
| § 59001. General Requirements. | § 59051. General Requirements. |
| Article 3. Facility Program Plan | Article 3. Facility Program Plan |
| § 59002. Facility Program Plan. | § 59052. Facility Program Plan. |
| § 59003. Facility Program Plan Approval. | § 59053. Facility Program Plan Approval. |
| Article 4. Personnel | Article 84. Personnel |
| § 59004. Administrator Qualifications. | § 59054 60 . Administrator Qualifications. |
| § 59005. Direct Care Staff Qualifications. | § 59055 61 . Direct Care Staff Qualifications. |
| § 59006. Staffing Requirements. | § 59056 2 . Staffing Requirements. |
| § 59007. Staff Training. | § 59057 63 . Staff Training. |
| § 59008. Continuing Education. | § 59058 64 . Continuing Education. |
| Article 5. Admission | Article 65. Admission |
| § 59009. Consumer Admission. | § 59059 56 . Consumer Admission. |

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| Article 5.5. Transition/Discharge | Article 5.5 Transition/Discharge |
| § 59009.5. Transition/Discharge from the Community Crisis Home. | 59059.5. Transition/Discharge from the Enhanced Behavioral Supports Home. |
| Article 6. Individual Behavior Supports Plan | Article 46. Individual Behavior Supports Plan |
| § 59010. Individual Behavior Supports Plan. | § 5906054. Individual Behavior Supports Plan. |
| Article 6.5. Restraint and Containment | Article 6.5. Restraint and Containment |
| § 59010.1. Prohibited Emergency Interventions. | § 59060.1. Prohibited Emergency Interventions. |
| § 59010.2. Time Limits on the Use of Physical Restraint. | § 59060.2. Time Limits on the Use of Physical Restraint. |
| § 59010.3. Assessment of Potential Physical Injury After Each Use of Physical Restraint. | § 59060.3. Assessment of Potential Physical Injury After Each Use of Physical Restraint. |
| § 59010.4. Debriefing After the Use of Physical Restraint. | §59060.4. Debriefing After the Use of Physical Restraint. |
| § 59010.5. Restraint Data Reporting. | § 59060.5. Restraint Data Reporting. |
| Article 7. Records Maintenance | Article 107. Records Maintenance |
| § 59011. Facility Files. | § 5906170. Facility Files. |
| § 59012. Consumer Files. | § 5906271. Consumer Files. |
| Article 8. Monitoring | Article 58. Monitoring |
| § 59013. Regional Center Monitoring. | § 5906355. Regional Center Monitoring. |
| Article 9. Contract | Article 79. Contract |
| § 59014. Contract. | § 5906457. Contract. |
| § 59015. Contract Termination. | § 5906558. Contract Termination. |
| § 59016. Contract Termination Appeals. | § 5906659. Contract Termination Appeals. |
| Article 10. Corrective Action Plans and Sanctions | Article 910. Corrective Action Plans and Sanctions |
| § 59017. Immediate Danger. | § 590675. Immediate Danger. |
| § 59018. Substantial Inadequacies. | § 590686. Substantial Inadequacies. |
| § 59019. Corrective Action Plan (CAP). | § 590697. Corrective Action Plan (CAP). |
| § 59020. Sanctions. | § 5907068. Sanctions. |
| § 59021. Facility Appeals. | § 5907169. Facility Appeals. |
| Article 11. Rates | Article 11. Rates |
| § 59022. Establishment of Rates. | § 59072 |

SPECIFIC PURPOSE AND RATIONALE FOR EACH ADOPTION, AMENDMENT OR REPEAL

**Subchapter 23. Community Crisis Homes
Article 1. Definitions**

Amend Section 59000. Definitions.

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Section 59000 to reformat and number each definition and to specify the terminology that is used by current statutes and the Community Crisis Homes regulations. The amendments will clarify how these terms are utilized for Community Crisis Homes.

Rationale

The proposed amendments will clarify and provide detailed definitions which are necessary to specify the meaning of the new terms and clarify existing terms used throughout the Community Crisis Homes regulations. Furthermore, these definitions are necessary to improve the transparency, comprehensibility, and consistency of the new terms in the Community Crisis Homes regulations in order to help ensure safe and appropriate care.

Section 59000, Amend Subd. (a)(1) Administrator

Purpose

The proposed regulatory action would amend the definition for the term “administrator” in Title 17, Division 2, Chapter 3, Subchapter 23, Section 59000(a)(1), to correct the cross reference from Section 59010 to Section 59004, which provides the administrator’s qualification requirements and to align with the existing Enhanced Behavioral Supports Homes definition in Title 17, CCR, Section 59050(a)(1).

Rationale

The proposed amendment to correct the cross-reference citation is necessary for clarity and for consistency with the definition of the term as defined in the Enhanced Behavioral Supports Homes regulations set forth in Section 59050(a)(1) and the Department of Social Services regulations set forth in Title 22, CCR, Section 80001(a)(2).

Section 59000, Amend Subd. (a)(3) Authorized Consumer Representative.

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(3), to change the term “minor” to “child” as defined in the Department of Social Services regulations set forth in Title 22, CCR, Section 84001(c)(2), and to ensure consistency and alignment with the Enhanced Behavioral Supports Homes regulations set forth in Section 59050(a)(3).

Rationale

The proposed amendment is necessary to clarify the term as used throughout the regulation is necessary in order to be consistent with the term as defined in the Enhanced Behavioral Supports Homes regulations set forth in Section 59050(a)(3), and the term “child” in the Department of Social Services regulations set forth in Title 22, CCR, Section 84001(c)(2).

Section 59000, Adopt Subd. (a)(5) Behavioral Restraint.

Purpose

The proposed regulatory action would add and define the term “behavioral restraint” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(5) to describe and provide a clear understanding for the affected public of this type of intervention that may be used when a person presents an immediate danger to themselves or others.

Rationale

The proposed regulation is necessary to provide a clear understanding of the term as used in this regulation. Furthermore, this definition cites the term as defined in H&SC, Section 1180.1(a), for consistency.

Section 59000, Adopt Subd. (a)(6) Child.

Purpose

The proposed regulatory action would add and define the term “child” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(6), in order to describe and provide a clear understanding of the term as used in the regulation.

Rationale

The proposed regulation is necessary to provide a clear understanding of the term as used in this regulation to align with the Department of Social Services definition as set forth in Title 22, CCR, Section 84001(c)(2), and the Enhanced Behavioral Supports Homes regulations set forth in Section 59050(a)(6), and to ensure that the defined terms in those regulations are consistent and do not conflict.

Section 59000, Amend Subd. (a)(9) Consumer.

Purpose

The proposed regulatory action would amend the definition for the term “consumer” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(9). The amendments change the term “individual” to “person” because the term “person” is more appropriate and provides consistency with the existing definition in the Enhanced Behavioral Supports Homes regulations set forth in Section 59050(a)(9), and as the term is used frequently throughout the regulation.

Rationale

The proposed amendment is necessary to provide clarity and consistency because these terms are used inconsistently throughout the Community Crisis Homes regulations.

Section 59000, Adopt Subd. (a)(11) Community Emergency Services.

Purpose

The proposed regulatory action would add and define the term “Community Emergency Services” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(11), because the term is used throughout the proposed regulations.

Rationale

The proposed regulation to add and define the term “community emergency services” is necessary for clarity in order to provide a clear understanding of the term as used in this regulation. The definition is consistent with the understanding by the general public and professionals. Furthermore, the terms used to define “Community Emergency Services” are common terms already defined or used throughout the existing regulation.

Section 59000, Adopt Subd. (a)(12) Containment.

Purpose

The proposed regulatory action would add a definition for the term “Containment” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(12), because the term is used throughout the proposed regulations.

Rationale

The proposed regulation to add and define the term “containment” is necessary in order to provide a clear understanding of the term as used in this regulation. This definition is consistent with H&SC, Section 1180.1(b). Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (a)(15) Culturally competent and linguistically appropriate.

Purpose

The proposed regulatory action would add a definition for the term “culturally competent and linguistically appropriate” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(15), because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define the term “Culturally competent and linguistically appropriate” is necessary in order to provide a clear understanding of the term as used in this regulation. This definition is consistent with W&I Code, Section 5840.6, and 42, United States Code 15001, Section 101(a)(8).

Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (a)(19) Dual Agency Client.

Purpose

The proposed regulatory action would add and define the term “Dual Agency Client” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(19), because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define “Dual Agency Client” is necessary in order to provide a clear understanding of the term as used in this regulation. This definition is consistent with H&SC, Sections 1567.81 and 1567.62.

Section 59000, Amend Subd. (a)(21) Emergency Intervention Plan.

Purpose

The proposed regulatory action would amend the definition for the term “Emergency Intervention Plan” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(21), by adding the specifications required in Section 59002(a)(8)(D), which specifies the contents of the emergency plan.

Rationale

The proposed amendment to update the definition of “Emergency Intervention(s)” is necessary in order to provide a clear understanding of the specifications for Emergency Intervention Plan and the contents therein which are provided in Section 59002(a)(8)(D), and for consistency with the term as defined in the Enhanced Behavioral Supports Homes regulations, as set forth in Section 59050(a)(19).

Section 59000, Adopt Subd. (a)(22) Extended Procedure.

Purpose

The proposed regulatory action would add and define the term “Extended Procedure” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(22), because the new term is used in the proposed regulations.

Rationale

The proposed regulation to add and define “Extended Procedure” is necessary to provide a clear understanding of the term as used in the proposed regulations. The definition is consistent with H&SC, Section 1180.4(h). Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (a)(24) Functional Behavior Assessment.

Purpose

The proposed regulatory action would add and define the term “Functional Behavior Assessment” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(24), because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define “Functional Behavior Assessment” is necessary to clarify the meaning and provide a clear understanding of the term as used in the regulation. Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Amend Subd. (a)(28)(A)4. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Team” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(28)(A)4., to remove language that is not necessary because the term clients' rights advocate is defined.

Rationale

The proposed amendment to remove unnecessary text from the list for the “Individual Behavior Supports Team” members is necessary in order to ensure terms are consistent and to provide a concise and clear understanding of the list of individuals that must be included as part of the Individual Behavior Supports Team.

Section 59000, Adopt Subd. (a)(28)(B)4. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Team” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(28)(B)4., to add representative(s) from the responsible Local Education Agency or agencies the option to participate as members of the Individual Behavior Supports Team.

Rationale

The proposed regulation to add representative(s) from the responsible Local Education Agency or agencies, as defined in California Education Code (CEC), Section 49005.1(c), the option to participate as members of the Individual Behavior Supports Team is necessary in order to provide an opportunity for an all-inclusive involvement of those responsible for providing an individual's educational services for collaboration and continuity of care across settings..

Section 59000, Adopt Subd. (a)(28)(B)5. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Team” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(28)(B)5. to remove the pronouns “his or her” and replace with the gender-neutral term “their” to avoid the use of gender pronouns.

Rationale

The proposed amendment to replace gendered pronouns with gender-neutral language is necessary to reflect changing societal norms and make the regulation more inclusive and respect those that don't identify as male or female.

Section 59000, Adopt Subd. (a)(29), (a)(29)(A) and (a)(29)(B) Individualized Emergency Intervention Plan.

Purpose

The proposed regulatory action would add and define the term “Individualized Emergency Intervention Plan” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(29), (a)(29)(A) and (a)(29)(B). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define “Individualized Emergency Intervention Plan” is necessary to clarify the implementation of emergency intervention techniques by the licensee that will be used with a specific

consumer and diffuse and safely resolve emerging crisis situations and strategies to minimize time spent in behavioral restraints. The definition is necessary to provide a clear understanding of the term as used in the regulation. Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Amend Subd. (a)(30) Individual Program Plan (IPP).

Purpose

The proposed regulatory action would amend the term "Individual Program Plan (IPP)" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(30), to provide clarity by ensuring the use of consistent terms. The proposed amendment would also strike out the clarifying words "a regional center" and add "the" in front of planning team because planning team is defined.

Rationale

The proposed amendment to the definition for Individual Program Plan (IPP) is necessary to clarify the meaning by using consistent terms and removing unnecessary language that could be confusing in order to provide a clear understanding of the term as used in this regulation.

Section 59000, Adopt Subd. (a)(31) Intensive Transition Services.

Purpose

The proposed regulatory action would add and define the term "Intensive Transition Services" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(31), because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define "Intensive Transition Services" is necessary to clarify the meaning and provide a clear understanding of the term as used in this regulation. Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (32) Licensee.

Purpose

The proposed regulatory action would add and define the term "Licensee" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(32). The term and definition are proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add “Licensee” is necessary to clarify the meaning and provide a clear understanding of the term as used in this regulation. The definition is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 80001 (l) (4). Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (a)(33) Physical restraint.

Purpose

The proposed regulation would add and define the term “Physical restraint” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(33). The definition for the new term is proposed to be added because the new term is used in the proposed regulations.

Rationale

The proposed amendment to add “Physical restraint” is necessary to clarify the meaning and provide a clear understanding of the term as used in this regulation. The definition is consistent with H&SC, Section 1180.1 (d). Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (a)(35) Prone restraint.

Purpose

The proposed regulatory action would add and define the term “Prone restraint” in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(35). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define the term “Prone restraint” is necessary to clarify the meaning and provide a clear understanding of the term as used in the regulation. Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Amend Subd. (a)(36), (a)(36)(A) and (a)(36)(B) Qualified Behavior Modification Professional.

Purpose

The proposed regulatory action includes non-substantive changes for purposes of proper grammar and sentence structure by amending the definition for the term "Qualified Behavior Modification Professional" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(36), (a)(36)(A), and (a)(36)(B), to provide consistency with the terms as used throughout the regulation, align it with the term as defined in the Enhanced Behavioral Supports Homes regulations set forth in Section 59050(a)(35), replace the term "an individual" with "a person," remove "certified by the national Behavior Analyst Certification Board as a Certified Assistant Behavior Analyst" from Subsection (A), remove "certified by the national Behavior Analyst Certification Board as a Certified Behavior Analyst" from Subsection (B), and renumber Subsections (A) through (F), for proper hierarchy format.

Rationale

The proposed nonsubstantive amendments are necessary for proper grammar and sentence structure to provide consistency throughout the regulation and align with Section 59050(a)(35). The proposed amendments to remove the language from Subsections (A) and (B), is duplicative because the terms are already defined and is necessary to be concise and provide clarity and use consistent terms throughout the regulations. It is also necessary to ensure the regulations have the proper hierarchy format.

Section 59000, Amend Subd. (a)(37) Registered Behavior Technician.

Purpose

The proposed regulatory action would amend the definition for the term "Registered Behavior Technician" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(37), by replacing the term "an individual" with "a person."

Rationale

The proposed amendment is necessary to correct the term "an individual" to "a person" for the definition of "Registered Behavior Technician" to provide consistency with the term as used throughout the regulation.

Section 59000, Adopt Subd. (a)(38) Seclusion.

Purpose

The proposed regulatory action would add and define the term "Seclusion" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(38). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add "Seclusion" is necessary to clarify the meaning and provide a clear understanding of the new term as used in this regulation. The definition is consistent with H&SC, Section 1180.1(e). Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (a)(39) Supine restraint.

Purpose

The proposed regulatory action would add and define the term "Supine restraint" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(39). The definition for the new term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add "Supine restraint" is necessary to clarify the meaning and provide a clear understanding of the new term as used in this regulation. Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (a)(41) Time-Out.

Purpose

The proposed regulatory action would add and define the term "Time-Out" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000 (a)(41). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add "time-out" is necessary to provide a definition as required pursuant to H&SC, Section 1180.1(e). The clarification to the meaning helps to provide a clear understanding of the term as used in the regulation. Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59000, Adopt Subd. (a)(42) Trauma-Informed Care.

Purpose

The proposed regulatory action would add and define the term "trauma-informed care" in Title 17, Division 2, Chapter 3, Subchapter 23, Article 1, Section 59000(a)(42). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulatory action to add “Trauma-Informed Care” is necessary to clarify the meaning and provide a clear understanding of the term as used in the regulation. Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Authority and Reference Citation for 59000

Purpose

This regulatory action would update authority and reference citation by adding H&SC, Sections 1180.1, 1180.4 and 1567.81, as references for Section 59000.

Rationale

The proposed regulation is necessary to update the statute that is being implemented, interpreted, and made specific as a requirement pursuant to the Administrative Procedure Act.

Article 2. General Requirements

Section 59001, Amend Subd. (d)

Purpose

The proposed regulatory action includes nonsubstantive changes in Title 17, Division 2, Chapter 3, Subchapter 23, Article 2, Section 59001 (d), by removing the pronouns “his or her” and replacing with the gender-neutral term “their” to avoid the use of gender pronouns.

Rationale

The proposed regulation replaces gendered pronouns with gender-neutral language is necessary to reflect changing societal norms, make the regulation more inclusive, and respect those that don't identify as male or female.

Section 59001, Adopt Subd. (h)

Purpose

The proposed regulatory action would add a new requirement in Title 17, Division 2, Chapter 3, Subchapter 23, Article 2, Section 59001 (h), for Community Crisis Homes to maintain facility files as required by Section 59011 and consumer files as required by Section 59012.

Rationale

The proposed regulation is necessary in order to provide adequate monitoring and oversight of the facilities by oversight agencies.

Section 59001, Adopt Subd. (h)(1)

Purpose

The proposed regulatory action would add a new requirement in Title 17, Division 2, Chapter 3, Subchapter 23, Article 2, Section 59001(h)(1), for Community Crisis Homes to require a copy of the certification approval letter to be maintained in the facility file.

Rationale

The proposed regulation is necessary to ensure current approvals are maintained in a consistent place and readily available for review by oversight agencies.

Section 59001, Adopt Subd. (h)(2)

Purpose

The proposed regulatory action would add a new requirement in Title 17, Division 2, Chapter 3, Subchapter 23, Article 2, Section 59001(h)(2), for Community Crisis Homes to require the facility and consumer files to be immediately available upon request of the Department and specifies that the file must be an original or a facsimile of the original.

Rationale

The proposed regulation is necessary for ongoing monitoring and oversight. Furthermore, this regulatory action is necessary to be consistent with Department of Social Services regulations set forth in Title 22, CCR, and to ensure the security and integrity of both the consumer files and facility files.

Section 59001, Adopt Subd. (h)(2)(A)

Purpose

The proposed regulatory action would add a new requirement in Title 17, Division 2, Chapter 3, Subchapter 23, Article 2, Section 59001(h)(2)(A), for Community Crisis Homes that any requests by oversight agencies for physical copies of the records, that the copies must be facsimile.

Rationale

The proposed regulation is necessary to ensure the integrity and security of the consumer and facility files by requiring the original records stay with the facility and the Department receives an exact copy of the record that exists. Furthermore, this regulatory action is necessary to be consistent with the Department of Social Services regulations set forth in Title 22, CCR.

Article 3. Facility Program Plan

Section 59002, Amend Subd. (a)(8)(C)

Purpose

The proposed regulatory action would amend the requirement for the facility's emergency procedures in Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(8)(C), for Community Crisis Homes by removing "on a schedule."

Rationale

The proposed amendment is necessary to provide clarity by removing confusing language that is not applicable. The proposed amendment is also necessary to avoid conflicting language and provide consistency by aligning this provision with the same provision in the Enhanced Behavioral Supports Homes regulations as set forth in Section 59052(a)(7)(C).

Section 59002, Adopt Subd. (a)(8)(D)1.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(8)(D)1., to require the facility program plan to contain an Emergency Intervention Plan which includes a description of how the facility will ensure the proper application of the emergency intervention techniques and its use of restraint or containment in Community Crisis Homes as set forth in Title 22, CCR, Section 84300 and H&SC, Section 1180.4(h).

Rationale

The proposed regulation is necessary for the health, safety, and well-being of consumer's and staff by ensuring the facility program plan includes their Emergency Intervention Plan's description and details for how will ensure the appropriate use of emergency intervention techniques, including not using restraint as an extended procedure and specifying procedures for the authorized exception by the administrator if there is still risk of imminent serious injury or harm.

Section 59002, Adopt Subd. (a)(8)(D)2.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(8)(D)2., to require the contents of the facility's emergency intervention plan to include procedures for documenting each use of physical restraint in the consumer's file.

Rationale

The proposed regulation is necessary to make sure the facility's emergency intervention plan has clear procedures for ongoing documentation for each use of physical restraint and thorough consumer files. Documentation is vital to provide safe environment and helps provide historical information necessary for both planning and accountability. This documentation allows for ongoing evaluation and careful consideration of the factors contributing to the use of restraint and data trends. This information is invaluable and can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59002, Adopt Subd. (a)(8)(D)3.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(8)(D).3., to require the contents of the facility's emergency intervention plan to include procedures for reviewing each use of physical restraint with the consumer and authorized consumer representative.

Rationale

The proposed regulation is necessary to ensure that the consumer and their authorized representative are included in the procedures for reviewing each use of physical restraint in order to provide them with awareness and the opportunity to provide input.

Section 59002, Adopt Subd. (a)(8)(D)4.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(8)(D)4., to require the contents of the facility's emergency intervention plan to include procedures for accessing community emergency services when the use of emergency interventions is not effective.

Rationale

The proposed regulation is necessary to make sure the consumer, staff, and the authorized consumer representative are made aware of outside emergency services or resources that are available when emergency interventions are not effective for the protection, health, safety, and well-being of all participants.

Section 59002, Adopt Subd. (a)(8)(D)4.a.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(8)(D)4.a., to clarify that the facility's

procedures for accessing community emergency services must include the facility's procedures concerning when and how to involve law enforcement in response to an incident at the facility.

Rationale

The proposed regulation is necessary to make sure the program plan defines the procedures for when and how law enforcement or emergency services would be contacted in response to an incident at the facility to help ensure the protection, health, safety, and well-being of all participants.

Section 59002, Adopt Subd. (a)(8)(D)5.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(8)(D)5., to require the contents of the facility's emergency intervention plan to include the requirements of Title 22, CCR, 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.

Rationale

The proposed regulation is necessary in order to provide consistency between both types of facilities and to ensure there are no conflicts with another state department who has been successful with their regulations and procedures.

Section 59002, Adopt Subd. (a)(8)(D)6.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(8)(D)6., to require the contents of the facility's emergency intervention plan to include an outline of procedures to be included in the Emergency Intervention Plan for the safety and well-being of the consumer and staff when an exception to the 15-minute restraint time limit is required.

Rationale

The proposed regulation to require an outline of procedures is necessary to help ensure consumer safety and welfare when staff are engaging in a restraint that goes beyond typical practice standards (i.e., 15 min. long). A predetermined outline will provide clarity to staff as well as the Individual Behavior Supports Team when determining best practice for that particular consumer and further encourages person centered services.

Section 59002, Amend Subd. (a)(10)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(10), to add the words “but is not limited to” for the methodologies used to measure consumer progress.

Rationale

The proposed amendment is necessary in order to allow for additional types of methodologies that may be used to measure consumer progress and to align with the Enhanced Behavioral Supports Homes regulations as set forth in Section 59052(a)(9).

Section 59002, Amend Subd. (a)(10)(A)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(10)(A), to add “use of emergency interventions” and remove “all required by current statute” to and align with the Enhanced Behavioral Supports Homes regulations, as set forth in Section 59052(a)(9)(A).

Rationale

The proposed amendment to add the use of emergency interventions is necessary in order to include data collection on the use of emergency interventions in which data can be used to measure consumer progress. The proposed amendment is also necessary for consistency because it aligns with the Enhanced Behavioral Supports Homes regulations, as set forth in Section 59052(a)(9)(A).

Section 59002, Amend Subd. (a)(13)(E)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(13)(E), to replace the term “individual” with “consumer.”

Rationale

The proposed amendment is necessary to provide consistency with the terms as defined and used throughout the regulation and align with the existing definition in Section 59000(a)(9).

Section 59002, Adopt Subd. (a)(15)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(15), to require the Community Crisis Home facility program plan contains a description of how the facility licensed as

a group home will ensure compliance with the placement duration limitations set forth in H&SC, Section 1567.81(d), governing placements of dual agency clients.

Rationale

The proposed regulation is necessary to clarify and specify the Community Crisis Home facility program plan's group home requirements for placement duration of dual agency clients and by providing requisite criteria and procedures pursuant to H&SC, Section 1567.81(d).

Section 59002, Adopt Subd. (a)(16)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(a)(16), to require Community Crisis Home facility program plans to specify and include 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.

Rationale

The proposed amendment is recommended by stakeholders after collaboration with the State Department of Social Services, consumer advocates, and regional centers, and is necessary to highlight cultural and linguistic backgrounds as a diversity component in competency training and focus for administrators and staff to ensure the person's cultural and linguistic background are fully considered and included when making decisions on their needs.

Section 59002, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 3, Section 59002(b), to require the Community Crisis Homes' facility program plans include the date and signature of the licensee.

Rationale

The proposed regulation is necessary to ensure the most current version of the facility program plan is received and for consistency with the regulations of other facilities, including the existing facility requirements for Enhanced Behavioral Supports Homes in Section 59052(b).

Authority and Reference Citation for 59002

Purpose

This regulatory action would update authority and reference citation by adding W&I Code, Section 4648, and H&SC, Sections 1180.4 and 1567.81, as references for Section 59002.

Rationale

The proposed amendments are necessary to update the statute that is being implemented, interpreted, and made specific.

Article 4. Personnel

Section 59006, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59006(a), to update the document incorporated by reference DS 6024 "Rate Development - Individual Costs Associated with Residency" (REV 9/2021).

Rationale

The proposed amendments to update the regulation text with the latest version of the revised DS Form 6024 is necessary for consistency and clarity to assist the facilities with the understanding of the correct version of the form to submit to the Department for accurate billing and determination of eligibility of facility costs for federal reimbursement through the Home and Community-Based Services Waiver and 1915i State Plan Amendment (federal programs).

Section 59006, Amend Subd. (b)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59006(b), to update the cross references for the Subdivisions identified in Section 59007 by consolidating and combining them.

Rationale

The proposed amendment to update the cross references is necessary for consistency and clarity.

Section 59006, Amend Subd. (c)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59006(c), to change the term "administrator" to "licensee" and appropriately and accurately identify whose responsibility it is to ensure that staff caring for consumers in crisis participate in and maintain appropriate training. The numerical figure was added to indicate the number six in parenthesis to clarify the minimum number of hours per month of behavioral consultation.

Rationale

The proposed amendments are necessary to provide consistency with the terms as defined and used throughout the regulation because the licensee has responsibility for the operations of the facility. It is also necessary to indicate the number six in both numerals and written out to ensure the number is not misinterpreted.

Section 59006, Amend Subd. (d)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59006(d), to change the term “facility administrator” to “licensee” and appropriately and accurately identify whose responsibility it is to ensure that staff caring for consumers in crisis participate in and maintain appropriate training. The numerical figure was added to indicate the number six in parenthesis to clarify the minimum number of consultant hours per month per consumer. Additionally, the proposed regulatory action would require documentation of the consultant hours in the consumer file.

Rationale

The proposed amendments are necessary to provide consistency with the terms as defined and used throughout the regulation. The documentation of the consultant hours is necessary to be consistent with the documentation of the staffing requirements for each facility and Subdivisions (c) and (d). It is necessary to indicate the number six in both numerals and written out to ensure the number is not misinterpreted. Documentation of the consultant hours in the consumer files is also necessary for verification that the consultant hours meet the minimum requirements and oversight agencies have access to the documentation maintained in the consumer file.

Section 59006, Amend Subd. (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59006(e), to clarify and add that each Community Crisis Home must have an administrator “present” and on duty for a minimum of 20 hours per week at each facility. Additionally, the proposed regulatory action would require documentation of the administrator's time as present at each facility in each facility file.

Rationale

The proposed amendments are necessary to provide consistency with the terms as defined and used throughout the regulation. The documentation of the administrator's time present at each facility in each facility file is necessary to be consistent with the documentation of the staffing requirements for each facility and Subdivisions (c) and (e). Documentation of the administrator's time present

at each facility in the facility file is also necessary for verification by oversight agencies.

Section 59007, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(a), to change the term “administrator” to “licensee” and appropriately and accurately identify whose responsibility it is to ensure that each direct care staff caring for consumers complete the required 32 hours of on-site orientation within the first 40 hours of employment.

Rationale

The proposed amendment is necessary for clarity, transparency, and consistency of the terms as used in the regulation to reorganize the subsections that follow for staff to have a better understanding of their training requirements

Section 59007, Amend Subd. (a)(1)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(a)(1), to reorganize by renumbering the subsection to align with the Enhanced Behavioral Supports Home regulations and to correct and update the cross reference for Title 22, CCR, from Section 80065(f) in Subsection (a) above to Section 85365(h). Additionally, the language includes non-substantive changes to remove unnecessary text and correct grammar.

Rationale

The proposed amendment to update the cross reference is necessary to for consistency with the Department of Social Service’s regulations where they recently expanded Title 22, CCR, Section 85365 to reference the provisions in Title 22, CCR, Sections 84065 and 85065 for Adult Residential Facilities (ARFs). The reorganization, renumbering and hierarchy non-substantive changes are necessary for purposes of providing clarity, proper grammar, and sentence structure. Furthermore, the amendments are necessary for transparency and comprehension to ensure staff are able maintain ongoing competence and confidence in dealing with crisis situations.

Section 59007, Amend Subd. (a)(2)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(a)(2), to remove language that duplicative because it pertains to the primary and secondary diagnoses that are set forth in Title 22, CCR, Section 85635(h), and adds Overview of “the core concepts” which are new and applicable to the proposed regulations.

Rationale

The proposed amendment is necessary to provide clear, concise regulatory language and to remove unnecessary language that is no longer applicable to the proposed regulations and clarify the core concepts for the training required. The proposed regulations are also necessary to align and provide consistency with the Department of Social Services regulations set forth in Title 22, CCR, Section 85365(h).

Section 59007, Amend Subd. (a)(2)(A)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(a)(2)(A), to remove training of “Developmental disability because it is duplicative of the regulations set forth in Title 22, CCR, Section 85635. Training related to “trauma-informed care” is added and essential to ensure a strength-based approach is taken that anticipates and avoids processes and practices that are likely to result in trauma or to retraumatize individuals with a history of trauma.

Rationale

The proposed amendment is necessary because it upholds the importance of consumer participation in the development, delivery, and evaluation of services. Enhanced Behavioral Supports Homes and Community Crisis Homes were designed with three clinical tenets in mind – trauma informed care, person centered planning, and positive behavioral supports. Trauma-informed care helps ensure best-practice care is consistently provided to all consumers in the selection of interventions and strategies informed by experienced trauma history, that consumers and representatives have a voice regarding the treatment being provided, and that previous experiences inform the next decisions. By including “trauma-informed care” in the regulation, the Department is exemplifying the importance and foundation for this model of care.

Section 59007, Amend Subd. (a)(2)(B)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(a)(2)(B), to remove training for “Mental Illness/behavioral health” and add training related to “Person-centered practices” to the on-site orientation training requirements for the overview of primary and secondary diagnoses to ensure staff are competent is using an individualized, person-centered approach to support and treatment.

Rationale

The proposed amendment is necessary because it upholds the importance of consumer participation in the development, delivery, and evaluation of services. Enhanced Behavioral Supports Homes and Community Crisis Homes were designed with three clinical tenets in mind – trauma informed care, person centered planning, and positive behavioral supports. Person-centered practices help ensure that consumers and representatives voice is central to the treatment being provided, best-practice care is consistently provided to all consumers in the selection of interventions and strategies that carefully consider what is important to and what is important for the consumer, and that previous experiences inform the next decisions. By including “person-centered practices” in the regulation, the Department is exemplifying the importance and foundation for this model of care.

Section 59007, Amend Subd. (a)(2)(C)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(a)(2)(C), to remove training for “Substance use and abuse” add training related to “Positive behavioral supports” to the on-site orientation training requirements for the overview of primary and secondary diagnoses to ensure staff understand and are competent in utilizing positive approaches to managing behavior that emphasize skill teaching and the utilization of functionally equivalent replacement behaviors and minimizes the use of aversive approaches or punishment as a means to reduce or control behavior.

Rationale

The proposed amendment is necessary because it upholds the importance of consumer participation in the development, delivery, and evaluation of services. Enhanced Behavioral Supports Homes and Community Crisis Homes were designed with three clinical tenets in mind – trauma informed care, person centered planning, and positive behavioral supports. Positive behavioral supports help ensure best-practice care is consistently provided to all consumers in the selection of positive, evidence-based treatments that emphasize enhancing skills and utilization of functionally equivalent replacement behaviors, that consumers and representatives have a voice regarding the treatment being provided, and that previous experiences inform the next decisions. By including “positive behavioral supports” in the regulation, the Department is exemplifying the importance and foundation for this model of care.

Section 59007, Adopt Subd. (a)(2)(D)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(a)(2)(D), to add “cultural competency” to the on-site orientation training requirements to ensure staff develop competence in cultural differences, beliefs, and norms and respond appropriately to the various consumer needs.

Rationale

The proposed regulation is necessary to ensure staff are trained to value diversity and understand and respond to cultural differences. Cultural competence training allows staff to support a consumer’s culture, beliefs, and upholds the importance of consumer participation in the development, delivery, and evaluation of services.

Section 59007, Amend Subd. (a)(3) – (10)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007, and remove the language in Subsections (a)(3) – (a)(10), which is not necessary because it is duplicative of the requirements in the Department of Social Services regulations, as set forth in Title 22, CCR, Section 85365.

Rationale

The proposed amendment is necessary to provide clear, concise regulatory language and remove the duplicative language that already exists in the cross-referenced Department of Social Services regulations, Title 22, CCR, Section 85365.

Section 59007, Amend Subd. (b)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(b), to add clarifying language that specifies the training requirements for Community Crisis Homes licensed as a group home and an adult residential facility and to correct and update the cross references to Title 22. The proposed amendments also specify that the licensee is responsible for ensuring that direct care staff receive their minimum of 16 hours of emergency intervention training within the first 80 hours of employment.

Rationale

The proposed amendments are necessary to provide a clear understanding of the differing requirements for emergency intervention training in the two different types of Consumer Crisis Homes, and to align and provide consistency with the Department of Social Services regulations set forth in Title 22. The

specification requiring the licensee to be responsible for ensuring that direct care staff receive their minimum of 16 hours of emergency intervention training within the first 80 hours of employment is necessary to clarify when the required emergency intervention training must occur. The 16 hours of emergency intervention training must occur in within the first 80 hours of employment to ensure the staff caring for consumers are prepared in the event of an emergency or crisis and for the health, protection, safety and well-being of themselves and consumers.

Section 59007, Amend Subd. (d)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(d) to change the term “administrator” to “licensee” and appropriately and accurately identify whose responsibility it is to ensure that direct care staff receive hands-on training in first aid and cardiopulmonary resuscitation by a certified instructor.

Rationale

The proposed amendment is necessary for clarity, transparency, and consistency of the terms as used in the regulation so that staff caring for consumers in crisis participate in and maintain appropriate training.

Section 59007, Amend Subd. (d)(1)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(d)(1), to change the term “administrator” to “licensee” and appropriately and accurately identify whose responsibility it is to maintain the certification in facility personnel records.

Rationale

The proposed amendment is necessary for clarity, transparency, and consistency of the terms as used in the regulation.

Section 59007, Amend Subd. (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59007(e), to change the term “administrator” to “licensee” and appropriately and accurately identify whose responsibility it is to ensure that direct care staff complete the competency-based training required by W&I Code, Section 4695.2(a) and (d).

Rationale

The proposed amendment is necessary for clarity, transparency, and consistency of the terms as used in the regulation.

Section 59008, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59008(a), to change the term “administrator” to “licensee” to appropriately and accurately identify who is responsible for ensuring that staff caring for consumers in crisis participate in and maintain appropriate training. Furthermore, the proposed amendments would change the number of continuing education hours from 20 to 25 to add an additional five (5) hours for competency-based continuing education in the areas of person-centered practices, positive behavior supports, trauma-informed care, and cultural competency to ensure ongoing staff competency and confidence in dealing with consumers in a supportive and therapeutic manner.

Rationale

The proposed amendment requiring additional hours of training is necessary to ensure ongoing staff competency in the areas of person-centered practices, positive behavior supports, trauma-informed care, and cultural competency. It is also necessary to clarify that the licensee maintains responsibility in ensuring staff complete the required continuing education training requirements.

Section 59008, Adopt new Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59008 new Subdivision (b), to require Community Crisis Homes provide five (5) hours of competency-based continuing education in the areas of person-centered practices, positive behavioral supports, trauma-informed care, and cultural competency which may be counted towards the required hours in Subdivision (a).

Rationale

The proposed regulation to add an additional five (5) hours of competency-based continuing education training in the areas of person-centered practices, positive behavior supports, trauma-informed care, and cultural competency is to ensure ongoing staff competency and confidence in dealing with consumers in a supportive and therapeutic manner.

Section 59008, Adopt Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59008(c), to align with the existing requirements for Enhanced Behavioral Supports Homes in Title 17, CCR, Section 59058(c) which states that 10 of the continuing education hours required by Title 22, CCR, Section 84065(j) may be counted towards the required hours for continuing education training.

Rationale

The proposed regulation is necessary for clarity, transparency, and consistency of the requirements in the regulation because after collaboration with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers, the Department found it necessary to allow, clarify and specify that group home training hours may count toward continuing education requirements.

Section 59008, Amend Subd. (d)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59008(d), to change the term “administrator” to “licensee” to identify appropriately and accurately who is responsible for ensuring that staff caring for consumers in crisis participate in and maintain appropriate training. The proposed action would also specify that “direct care staff” are responsible for completing additional continuing education, as necessary, to ensure the continued health and safety of each consumer.

Rationale

The proposed regulatory amendment is necessary for clarity, transparency, and consistency of the terms as used in the regulation. The regulation was not clear as to who is responsible for completing additional continuing education and specifies that it is the direct care staff who is required.

Section 59008, Amend Subd. (f)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59008(f), to specify that in addition to the training requirements in Subsection (a), the licensee must ensure that direct care staff renew the 16 hours of emergency intervention training annually as required by Section 59007(c).

Rationale

The proposed amendment is necessary to clarify that the licensee is responsible for ensuring the direct care staff renew the required emergency intervention training annually and that it is in addition to the training requirements in Subsection (a).

Section 59008, Adopt Subd. (g)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Section 59008(g), to require the administrator provide monthly, 20 minutes (minimum) of refresher staff training that may be counted to meet the requirements of Subsection (f) and focuses on one of the emergency intervention and de-escalation strategies, including the techniques the staff will use to prevent injury and maintain safety of consumers who are a danger to self or others. Furthermore, the refresher training must emphasize positive behavioral supports and techniques that are alternatives to physical restraint.

Rationale

The proposed regulation is necessary to ensure that staff receive monthly reminders that focus on one of the emergency intervention and de-escalation strategies including the techniques they will use to prevent injury and maintain safety of consumers who are a danger to self or others and clarifies that the monthly 20 minutes (minimum) of refresher staff training is in addition to the training requirements in Subsection (a).

Section 59008, Adopt Subd. (g)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Subsection 59008(g)(1), to require the refresher training to focus on one of the emergency intervention and de-escalation strategies including the techniques the staff will use to prevent injury and maintain safety of consumers who are a danger to self or others.

Rationale

The proposed regulation is necessary to ensure staff are adequately trained and can appropriately implement the emergency intervention and de-escalation strategies during crisis situations which will maintain consumer and staff health and safety.

Section 59008, Adopt Subd. (g)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Subsection 59008(g)(2), to require the refresher training to emphasize trauma-informed positive behavioral supports and techniques that are alternatives to physical restraint.

Rationale

The proposed amendment is necessary to ensure staff are adequately trained and can appropriately implement alternatives to physical restraint using trauma-informed positive behavioral supports and techniques during crisis situations which will maintain consumer and staff health and safety.

Section 59008, Adopt Subd. (g)(3)

Purpose

The proposed regulation would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 4, Subsection 59008(g)(3), to require that administrators of facilities approved to use supine restraint holds and ensures at least once per quarter, the monthly refresher staff training focused on practicing the use of supine restraint holds.

Rationale

The proposed amendment is necessary to ensure staff are regularly practicing the accurate use of the restrictive supine restraint hold. Regular and routine practice will ensure staff are adequately trained and can appropriately implement the emergency intervention hold during crisis situations which will maintain consumer and staff health and safety.

Article 5. Admission

Section 59009, Amend Subd. (e)(2) and Adopt Subd. (e)(2)(A)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 5, Section 59009(e)(2), and adopt Section 59009(e)(2)(A), to require within seven days of admission completion of a written functional behavior assessment by the Qualified Behavior Modification Professional.

Rationale

The proposed amendment to require the administrator to ensure completion of a “written functional behavior assessment” by the Qualified Behavior Modification Professional within seven days of admission because the functional behavior assessment process includes a variation of procedures developed to ascertain the purpose or reason for behaviors displayed by individuals with

intellectual and developmental disabilities. The results of functional behavior assessment inform and aids in the development of a function-based and evidence-based Individual Behavior Supports Plan which includes functionally equivalent replacement behaviors. This amendment is also necessary to clarify confusion about who is responsible for completing and updating the written Individual Behavior Supports Plans and completing the functional behavior assessments.

Section 59009, Amend Subd. (f)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 5, Section 59009(g), to correct the syntax.

Rationale

The proposed amendment is necessary to ensure the regulations are clear and understood by the Department and stakeholders, including the State Department of Social Services, consumer advocates, and regional centers.

Section 59009, Amend Subd. (g)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 5, Section 59009(g), removes unnecessary language and clarifies the regulation text.

Rationale

The proposed amendment is necessary to ensure the regulations are clear and understood by the Department and stakeholders, including the State Department of Social Services, consumer advocates, and regional centers.

Article 5.5 Transition/Discharge

Adopt Article 5.5, Transition/Discharge

Purpose

The proposed regulatory action would adopt Article 5.5 to Title 17, Division 2, Chapter 3, Subchapter 23 for transition and discharge regulations for the Community Crisis Homes.

Rationale

The proposed regulation would add Article 5.5 to Title 17, Division 2, Chapter 3, subchapter 23. This is necessary for consistency and clarity for the details related to transition and discharge for Community Crisis Homes.

Adopt Section 59009.5. Transition/Discharge from the Community Crisis Home.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5, Transition/Discharge from the Community Crisis Home, to clarify the procedures for transition to and from Community Crisis Home facilities

Rationale

The proposed regulation is necessary for consistency and to specify the transition goals and timelines related to Community Crisis Homes so that there is an understanding of these goals and requirements. The goals and timelines were developed in accordance with existing statutes and regulations, as well as collaboration and consultation with stakeholders, including the State Department of Social Services, consumer advocates, and regional centers, who provided clinical best practices.

Section 59009.5, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(a), to specify when transition planning should begin and that the requirements for transition planning exist in Section 59010(d)(10).

Rationale

The proposed regulation is necessary to provide specificity that transition planning should begin at admission and clarifies that requirements exist in Section 59010(d)(10).

Section 59009.5, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(b), to specify and outline the requirements and procedures to obtain approval for additional days for a consumer residing in a Community Crisis Home beyond 18 months for Community Crisis Homes licensed as an adult residential facility and 12 months for Community Crisis Homes licensed as a group home pursuant to Title 17, CCR, Section 59022(b)(3)(D).

Rationale

The proposed regulation is necessary to provide clarity in requirements for obtaining approval for a regional center requesting additional days beyond 18 months for Community Crisis Homes licensed as an adult residential facility and 12 months for Community Crisis Homes licensed as a group home and that a regional center must provide a written request to the Department for approval.

Because there is no statutory or regulation that requires the limits for 18 months (adults) and 12 months (children), were determined based on stakeholder input for the approximate amount of time it should take for stabilization to occur, and the person transition out of the CCH. The requirement to submit requests for extension to the Department 5 days prior to expiration provide the Department enough time to review the data provided and approve and/or request additional information be submitted

Section 59009.5, Adopt Subd. (b)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5, Subdivision (b)(1), to specify and outline the requirements for the regional center to provide a written request to obtain approval which includes Consumer initials, Unique Client Identifier number, Community Crisis Home facility name, and the date of admission.

Rationale

The proposed regulation is necessary to provide clarity of the requirements for obtaining approval for a regional center requesting additional days beyond 18 months and 12 months by outlining the requirements for the written request. It is necessary for each request to include Consumer initials, Unique Client Identifier number, Community Crisis Home facility name, and the date of admission necessary to assist the Department with the information necessary for their review of the written request and to process the request in a timely manner.

Section 59009.5, Adopt Subd. (b)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5, Subdivision (b)(2), to specify and outline the requirements for the written request to include the initial Functional Behavior Assessment, Individual Behavior Supports Plan and the transition plan.

Rationale

The proposed regulation is necessary to provide clarity of the requirements for obtaining approval for a regional center to request additional days beyond 18 months and 12 months by outlining the requirements for the written request. The Functional Behavior Assessment and Individual Supports Plan detail service and support needs and transition planning considerations at the outset of treatment and are necessary to assist the Department with the information necessary for their review of the written request and to process the request in a timely manner.

Section 59009.5, Adopt Subd. (b)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(b)(3), to specify and outline the requirements for the written request to include the current Individual Behavior Supports Plan including the transition plan.

Rationale

The proposed regulation is necessary to provide clarity of the requirements for obtaining approval for a regional center requesting additional days beyond 18 months and 12 months by outlining the requirements for the written request. The current Individual Behavior Supports Plan including the transition plan includes strategies and supports that have been effective thus far or indicates treatment modification necessary to achieve stabilization. These changes should be reflected in the projected services and supports detailed within the transition plan and are necessary to assist the Department with the information necessary for their review of the written request and to process the request in a timely manner.

Section 59009.5, Adopt Subd. (b)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(b)(4), to specify and outline the requirements for the written request to include historical and current graphed data of consumer's target behavior(s) since entering the Community Crisis Home.

Rationale

The proposed regulation is necessary to provide clarity of the requirements for obtaining approval for a regional center requesting additional days beyond 18 months and 12 months by outlining the requirements for the written request. Historical and current graphed data visually demonstrates the consumers progress and response to intervention strategies overtime. This information helps determine behavioral trends and identify behavioral variability as a measure of treatment effectiveness and is necessary to assist the Department with the information necessary for their review of the written request and to process the request in a timely manner.

Section 59009.5, Adopt Subd. (b)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(b)(5), to specify and outline the requirements in Title 17, CCR, Section 59022(b)(3)(D), to specify and outline the requirements for the written request to include an explanation of why residing in

the Community Crisis Home for additional days in necessary to protect the consumer's health and safety.

Rationale

The proposed regulation is necessary to provide clarity of the requirements for obtaining approval for a regional center requesting additional days beyond 18 months and 12 months by outlining the requirements for the written request. An explanation of why residing in the Community Crisis Home for additional days is necessary because it informs the Department of the necessity for approval of additional days and assists the Department with the information necessary for their review of the written request and to process the request in a timely manner.

Section 59009.5, Adopt Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(c), to specify that Department approval shall be granted for no more than 30 days at a time.

Rationale

The proposed regulation to require a maximum approval of 30 days by the Department is necessary to ensure transition planning activities are occurring on a regular and frequent basis and communicated to the Department.

Section 59009.5, Adopt Subd. (d)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(d), to specify that following the Department's initial approval for 30 additional days, each request thereafter for additional days shall be submitted to the Department to the specified email address no later than five days prior to the expiration of the current approval.

Rationale

The proposed regulation is necessary to provide details of how to request additional days after the Department's initial approval. The proposed adoption further clarifies the ongoing review and approval process including the information required for submittal to the department.

Section 59009.5, Adopt Subd. (d)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5, Subdivision (d)(1), to specify and outline the requirements that the latest information is updated with the historical and current graphed data of target behavior(s) for visual analysis since the last written request.

Rationale

The proposed regulation is necessary to provide the Department with the appropriate data needed to understand progress towards the reduction of target behaviors and skill acquisition since the last written request and as a measure of treatment effectiveness.

Section 59009.5, Adopt Subd. (d)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(d)(2), to require an updated Individual Behavior Supports Plan and transition plan with an explanation of barriers that have prevented stabilization and/or transition out of the Community Crisis Home.

Rationale

The proposed regulation is necessary to provide the Department with an understanding of progress towards stabilization and ongoing transition planning activities.

Section 59009.5, Adopt Subd. (d)(3)

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5, Subdivision (d)(3), to require an explanation of why residing in the Community Crisis Home for additional days is necessary to protect the consumer's health or safety.

Rationale

The proposed regulation is necessary to provide the Department with an explanation of any health or safety concerns that would support residing in the facility for additional days.

Section 59009.5, Adopt Subd. (e)

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 23, Article 5.5, Section 59009.5(e), to specify and require that the facility administrator shall develop a summary of the individual's developmental, behavioral, social, 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 will be provided to the next placement.

Rationale

The proposed regulation is necessary ensure a comprehensive, person-centered summary and effective intervention supports and strategies are provided to the next placement to increase the probability of maintaining stabilization in the new placement.

Article 6. Individual Behavior Supports Plan

Section 59010, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(a), to specify that the Qualified Behavior Modification Professions is responsible for coordinating the development and subsequent updating of each consumer's Individual Behavior Supports Plan.

Rationale

The proposed amendment is based on feedback provided by stakeholders, including the State Department of Social Services, consumer advocates, and regional centers, and specifies who's responsible for the requirement coordinating the development and subsequent updating of each consumer's Individual Behavior Supports Plan. The proposed amendment provides specificity and clarity to the regulations so there is no confusion.

Section 59010, Amend Subd. (d)(10)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(10), to clarify the details of the transition plan that the Individual Behavior Supports Team must review monthly.

Rationale

The proposed amendment is based on feedback provided by stakeholders, including the State Department of Social Services, consumer advocates, and regional centers, and specifies details for the transition plans for consumers and to add a monthly review of the transition plan and is necessary to ensure regular review and modification of the components in the transition plan as data indicates need.

Section 59010, Adopt Subd. (d)(10)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(10)(A), to add the requirement that the transition plan must include measurable transition objectives and criteria, including baseline measures.

Rationale

The proposed regulation to require measurable transition objectives and criteria, including baseline measures is included in the transition plan and is necessary to ensure transition planning for each individual occurs and is guided by current progress and data, which was also expressed as a priority by stakeholders, including the State Department of Social Services, consumer advocates, and regional centers.

Section 59010, Adopt Subd. (d)(10)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010 (d)(10)(B), to add the requirement that the transition plan must include the projected service and support needs.

Rationale

The proposed regulation to require projected services and support needs are included in the transition plan and is necessary to ensure current progress and data are reviewed, and modifications be made to those projected services and supports as necessary to set goals and objectives for the consumer.

Section 59010, Adopt Subd. (d)(10)(C)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(10)(C), to add the requirement that the transition plan must include a projected timeline for stabilization.

Rationale

The proposed regulation to require a projected timeline for stabilization is included in the transition plan is necessary to set goals and objectives for the consumer. Once the individual is approaching their stabilization goals and the regional center has identified a community option, the formal transition process should begin.

Section 59010, Adopt Subd. (d)(10)(D)

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(10)(D), to add the requirement that the transition plan must include a plan for cross-training needs.

Rationale

The proposed regulation to require a plan for cross-training needs is necessary so that the coordination of logistics for the training can be planned for as the consumer stabilizes and transitions successfully into the community.

Section 59010, Amend Subd. (d)(11)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(11), to add the requirement to include an Individualized Emergency Intervention Plan when there is potential for emergency interventions.

Rationale

The proposed amendment to include when emergency interventions may be necessary in an Individualized Emergency Intervention Plan to ensure there are mechanisms in place for the protection, health and safety of consumers and staff members.

Section 59010, Adopt Subd. (d)(11)(A)

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(11)(A), to add the requirement that within 72 hours, the licensee must provide a copy of an Individualized Emergency Intervention Plan to both the regional center's designee and the Department, as specified in Subdivision (d)(11)(A)3., when supine restraint is included in an Individualized Emergency Intervention Plan.

Rationale

The proposed regulation is necessary to ensure the regional center and Department are provided timely notification of the inclusion of a supine restraint in an Individualized Emergency Intervention Plan for a consumer and are each provided copy of the developed Individual Behavior Supports Plan. 72 hours allows the administrator sufficient time to ensure the plan is updated and notify the regional center and Department of the inclusion of the supine restraint in an Individualized Emergency Intervention Plan following its development. Supine restraint is the most restrictive physical restraint permitted and its (mis)use poses the greatest threat to the health and safety of the individual being restrained and to staff. Timely notification of its potential use allows the regional center and Department to track and monitor its use.

Section 59010, Adopt Subd. (d)(11)(A)1.

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(11)(A)1., to specify that when a supine restraint is included in the Individualized Emergency Intervention Plan, the plan must also include a description to systematically fade its use and inclusion.

Rationale

The proposed regulation requires the Individualized Emergency Intervention Plan to include a plan to systematically fade its use. This is necessary as supine restraint is the most restrictive physical restraint permitted and its (mis)use poses the greatest threat to the consumer and staff health and safety. While it may be necessary to utilize supine restraint when there is imminent threat to health and safety, it must be used as a last resort. A plan to systematically fade its use must be developed and identify de-escalation strategies and alternatives to supine restraint. Staff will be trained to implement in order to minimize the use of highly restrictive interventions.

Section 59010, Adopt Subd. (d)(11)(A)2.

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(11)(A)2., to add the requirement that corrections must be made to the Individual Behavior Supports Plan, including the Individualized Emergency Intervention Plan, when identified by the regional center or Department and resubmitted within 72 hours.

Rationale

The proposed regulation will ensure the facility shall make timely revisions to the Individual Behavior Supports Plan, including the Individualized Emergency Intervention Plan, when the need for revision is determined by the regional center or Department. Seventy-two (72) hours is necessary because it will allow adequate time to ensure necessary revisions are addressed and the plan is updated and resubmitted to the regional center and Department in a timely manner.

Section 59010, Adopt Subd. (d)(11)(A)3.

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(d)(11)(A)3., to specify that a copy of the Individual Behavior Supports Plan, including the Individualized Emergency Intervention Plan, must be submitted to the Department email inbox at EBSHCCHMonitoring@dds.ca.gov when supine restraint is included in the Individualized Emergency Intervention Plan.

Rationale

The proposed regulation is necessary as it clarifies and specifies where and how to send the Individual Behavior Supports Plan, including the Individualized Emergency Intervention Plan to the Department.

Section 59010, Adopt Subd. (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 6, Section 59010(e), to remove “on his or her own behalf,” which is unnecessary language and aligns with the Enhanced Behavioral Supports Homes regulations, as set forth in Section 59060(e).

Rationale

The proposed regulation is necessary as it cleans up the regulation and provides consistency with the Enhanced Behavioral Supports Homes regulations, as set forth in Section 59060(e).

Adopt new Article 6.5, Restraint and Containment

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, and Article 6.5, Restraint and Containment to clarify and specify the Department’s Guidelines for the Use of Restraint or Containment in Community Crisis Homes.

Rationale

The proposed regulation to add the new article for restraint and containment is necessary because it was required pursuant to W&I Code, Section 4698.1(b), whereby the Department, in consultation with appropriate professionals and the protection and advocacy agency shall develop guidelines by March 2020, regarding the use of physical restraint or containment in Community Crisis Homes and appropriate safeguards for the protection of clients’ rights. Furthermore, this new article aligns with Title 17, CCR, Sections 59001(g), 50515(a), and 54327, Title 22, CCR, Section 80075, and H&SC, Sections 1180.1 and 1180.4 related to physical restraint and containment as well as the definition pursuant to H&SC, Section 1180.1(b) and (d).

Adopt Section 59010.1. Prohibited Emergency Interventions

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.1, entitled “Prohibited Emergency Interventions.” This new section provides the reference to the regulatory sections that describe the emergency interventions that are prohibited for all community care facilities.

Rationale

The proposed regulation is necessary to clarify the prohibited emergency interventions so they can be easily understood by Community Crisis Home consumers and providers and for the health and safety of our consumers and

staff. Furthermore, the proposed regulation is necessary for clarity, consistency, health and safety, and nonduplication.

Adopt Section 59010.2. Time Limits on the Use of Physical Restraint.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2, entitled "Time Limits on the Use of Physical Restraint" and Subdivisions (a)-(i) to add guidelines and specify the time limits on the use of physical restraint pursuant to W&I Code, Section 4698.

Rationale

The proposed regulation is necessary because it clarifies the physical restraint and containment regulations and statutes so they can be easily understood by Community Crisis Home providers as required by W&I Code, Section 4698. The proposed regulations also provide clear guidance for the health and safety of consumers and providers.

Section 59010.2, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(a), to specify that physical restraint shall not continue longer than necessary to control the behavior for which the restraint was employed and that 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.

Rationale

The proposed regulation is necessary because limiting physical restraints of consumers emphasizes trauma-informed care practices, helps maintain consumer dignity, and reduces the risk for possible injury to self or others. Furthermore, it clarifies that physical restraint shall not continue longer than necessary to control the behavior for which the physical restraint was employed and that the use of physical restraint must be discontinued as soon as the consumer's behavior no longer poses imminent danger of serious injury to self or others, as required by W&I Code, Section 4698.

Section 59010.2, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(b), to specify that physical restraint shall not be used as an extended procedure, except when there is a continued need to protect the immediate health and safety of the consumer and/or others from risk of imminent serious physical harm and only with the administrator or their designee's approval.

Rationale

The proposed regulation is necessary because it is required by W& I Code, Section 4698, and would specify the details regarding the use of physical restraint and its use as an extended procedure. The adoption of this Subsection (b) is necessary because it clarifies the physical restraint and containment regulations and statutes so they can be easily understood by Community Crisis Home consumers and providers.

Section 59010.2, Adopt Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(c), to specify the requirements for the continued use of physical restraint beyond 15 consecutive minutes.

Rationale

The proposed regulation is necessary because it is required by W& I Code, Section 4698 and would specify the requirements in order to continue physical restraint beyond 15 minutes. These requirements were determined after collaboration with the appropriate professionals and the protection and advocacy agency as described in W&I Code Section 4900(i) regarding the use of restraint or containment in community crisis homes, for the protection of clients' rights pursuant to W&I Code, Section 4698 (d).

Section 59010.2, Adopt Subd. (c)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(c)(1), to specify that the person who approves the continuation of physical restraint must be a person other than the person who restrained the consumer.

Rationale

The proposed regulation to require that the person who approves the continuation of physical restraint must be a person other than the person who restrained the consumer is necessary to ensure trained staff not involved in the physical restraint are constantly assessing and monitoring the restrained individual's physical and psychological status to ensure health and safety. It is also necessary to ensure the approval of continuous use of physical restraint is objective and the approving person is available to consult with others, if indicated. It is necessary to clarify the physical restraint and containment requirements so they can be easily understood by Community Crisis Home consumers and providers.

Section 59010.2, Adopt Subd. (c)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(c)(2), to specify that the person who approves the continuation of physical restraint must visually check the consumer 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 individual restraining the consumer.

Rationale

The proposed regulation is necessary to ensure the health and safety of the consumer and to align and provide consistency with H&SC, Section 1180.4 and the Department of Social Services regulations set forth in Title 22, CCR, Section 85122. This requirement is necessary because it was determined to be the best practice after collaboration with the appropriate professionals and the protection and advocacy agency as described in W&I Code, Section 4900(i) regarding the use of restraint or containment in community crisis homes, and for the protection of clients' rights pursuant to W&I Code, Section 4698 (d).

Section 59010.2, Adopt Subd. (c)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(c)(3), to specify that after the initial 15 minutes, the individual 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 Title 17, CCR, Section 59010.2 (a).

Rationale

The proposed regulation is necessary to ensure the health and safety of the consumer and to justify the continued use of physical restraint is justified. This requirement is necessary because it was determined to be the best practice after collaboration with the appropriate professionals and the protection and advocacy agency as described in W&I Code, Section 4900(i) regarding the use of restraint or containment in community crisis homes.

Section 59010.2, Adopt Subd. (c)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(c)(4), to specify that within 24 hours the administrator must provide documentation in the consumer's file.

Rationale

The proposed regulation is necessary to ensure there is an accurate recording of the facts following the use of physical restraint and 24 hours allows for adequate time to document the incident while the details of the event are still fresh and is consistent and aligns with the Department of Social Services regulations set forth in Title 22, CCR, Section 85122(e)(6)(A)1. Documentation is vital to provide a safe environment and helps provide historical information necessary for both planning and accountability.

Section 59010.2, Adopt Subd. (c)(4)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(c)(4)(A), to specify that within 24 hours the administrator or their designee, must document in the consumer's file the approval for the continued use of physical restraint beyond 15 consecutive minutes.

Rationale

The proposed regulation to document in the consumer's file within 24 hours is necessary to ensure timely documentation of the approved continued use of physical restraint is available for review by the Individual Behavioral Supports Team in order to ensure the health and safety of the consumer. The proposed regulations are also necessary to align and provide consistency with H&SC, Section 1180.4 and the Department of Social Services regulations set forth in Title 22, CCR, Section 85122. The time limit of 15 consecutive minutes is necessary because it aligns with the Department of Social Services regulations in Title 22, CCR, Section 85122(e)(6)(A)1., which has proven to be successful.

Section 59010.2, Adopt Subd. (c)(4)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(c)(4)(B), to specify that within 24 hours the administrator or their designee, must document in the consumer's file the explanation for why it was necessary for the physical restraint to extend beyond 15 consecutive minutes which also aligns with the regulations in Title 22, CCR, Section 85122(e)(6)(A)1.

Rationale

The proposed regulation to document in the consumer's file within 24 hours is necessary to ensure timely documentation of the reasons for the continued physical restraint is available for review by the Individual Behavioral Supports Team in order to provide the health and safety of the consumer. The regulations are also necessary for consistency with Title 22, CCR, Section 85122 and H&SC, Section 1180.4. The time limit of 15 consecutive minutes is necessary and

consistent with the Department of Social Services regulations in Title 22, CCR, Section 85122(e)(6)(A)1., which has proven to be successful.

Section 59010.2, Adopt Subd. (c)(4)(C)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(c)(4)(C), to specify that within 24 hours the administrator or their designee, must document in the consumer's file a description of consumer's behavior that posed an imminent danger of serious injury to self or others.

Rationale

The proposed regulation to document in the consumer's file within 24 hours is necessary to ensure timely documentation of the consumer's behavior that warranted the consumer was in imminent danger of serious injury to self or others is available for review by the Individual Behavioral Supports Team in order to ensure the health and safety of the consumer. The regulations are also necessary and consistent with the requirements set forth in Title 22, CCR, Section 85122(e)(6)(A)1., which has proven to be successful.

Section 59010.2, Adopt Subd. (d)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(d), to specify that staff must make provisions for responding promptly and appropriately to a consumer's request for services and assistance with repositioning the consumer when appropriate.

Rationale

The proposed regulation is necessary to decrease risk for injury or harm due to the use of physical restraint by requiring staff to respond to consumers request for services. This provision is also necessary because it has been determined to be a best practice after collaboration with the appropriate professionals and the protection and advocacy agency as described in W&I Code Section 4900(i). Furthermore, the proposed regulation is consistent and aligns with the Department of Social Services regulations set forth in Title 22, CCR, Section 85122(e)(4), which has proven to be successful.

Section 59010.2, Adopt Subd. (e)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(e), to specify that if a physical restraint lasts longer than 30 consecutive minutes, the consumer in a physical restraint must be visually checked 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 Title 17, CCR, Section 59010.2(a).

Rationale

The proposed regulation is necessary to ensure the health and safety of the consumer and to align and remain consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322.

Section 59010.2, Adopt Subd. (e)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(e)(1), to specify that the visual checks must be documented in the consumer's file at the time of the visual check.

Rationale

The proposed regulation is necessary to verify that the visual observation and assessment occurs every 15 minutes to ensure the protection, safety and health of the consumer. It is also necessary to document immediately at the time of the visual check to ensure there is an accurate recording of the facts.

Documentation is vital to provide safe environment and helps provide historical information necessary for both planning and accountability. The time factor to visually observe every 15 minutes is consistent with the Department of Social Services regulations, Title 22, CCR, Section 84322(f)(2)(A), which have proven to be successful.

Section 59010.2, Adopt Subd. (e)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(e)(2), to specify that the person conducting the check must not be the individual who restrained the consumer.

Rationale

The proposed regulation is necessary to ensure that the person conducting the visual check can objectively and adequately assess and address the consumer's needs and to reduce the risk for injury or harm due to the use of physical restraint by responding to the consumers requests for assistance or repositioning. The proposed regulations are also necessary in order to comply with Subsection (e)(1), the person doing the restraint would not be able to visually check or document at the time of the visual check. The proposed regulation also aligns and is consistent with the Department of Social Services regulations, Title 22, CCR, Section 84322(f)(2)(C)2., which have proven to be successful.

Section 59010.2, Adopt Subd. (f)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(f), to describe the requirements if a physical restraint lasts longer than 60 minutes.

Rationale

The proposed regulation is necessary to adequately assess the consumer's health and safety and to ensure the protection, safety and health of the consumer. The time factor to relating to 60 minutes is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322, and have proven to be successful. The proposed regulation is also necessary to ensure the protection, safety, health and well-being of the consumer.

Section 59010.2, Adopt Subd. (f)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(f)(1), to specify if a physical restraint lasts longer than 60 minutes, the administrator must evaluate whether the facility has adequate resources to meet the consumer's needs and reevaluate at 30-minute intervals thereafter pursuant to Title 22, CCR, Section 84322.

Rationale

The proposed regulation is necessary to ensure that the administrator is continually assessing the need for continued physical restraint and the facility's ability to continue to meet the consumer's needs or if assistance from an outside agency may be warranted. The time factors to relating to 60 minutes and re-evaluation at 30-minute intervals is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322, and have proven to be successful. The proposed regulation is also necessary to ensure the protection, safety and health of the consumer.

Section 59010.2, Adopt Subd. (f)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(f)(2), to specify that physical restraint used in excess of 60 consecutive minutes, must be approved in writing every 30 minutes, by the administrator or their designee.

Rationale

The proposed regulation requiring the administrator to provide ongoing approval ensures there is an objective individual monitoring the restraint, agreeing the restraint continues to be necessary for safety/wellbeing and

provides additional monitoring of the restraint of the staff and acts as ongoing support throughout the prolonged restraint. The time factor to relating to physical restraint used in excess of 60 minutes, and must be approved in writing every 30 minutes, by the administrator or their designee is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322, and have proven to be successful. The proposed regulation is also necessary to ensure the protection, safety, health and wellbeing of the consumer.

Section 59010.2, Adopt Subd. (f)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(f)(3), to specify that the consumer's authorized representative must be notified, and if the consumer is a child, the child's authorized representative must approve when physical restraints are used in excess of 60 consecutive minutes.

Rationale

The proposed regulation is necessary to ensure the consumer's authorized representative is aware of the extended duration of the physical restraint and remain consistent with Title 22, Section 84322(f)(2).

Section 59010.2, Adopt Subd. (f)(3)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(f)(3)(A), to specify a caveat that if the administrator or their designee is not able to obtain approval from the child's authorized consumer representative to continue the extended use of restraint, staff shall maintain the physical restraint when there is imminent risk of serious physical injury and immediately call local law enforcement the consumer's authorized representative must be notified, and if the consumer is a child, the child's authorized representative must approve when physical restraints are used in excess of 60 consecutive minutes.

Rationale

The proposed adoption is necessary to ensure the consumer's authorized representative is aware of the extended duration of the physical restraint and remain consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322(f)(2).

Section 59010.2, Adopt Subd. (g)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(g), to specify that if a physical

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

Rationale

The proposed regulation is necessary to ensure the consumer is able to remain comfortable in physical restraint, decrease risk of injury from the physical restraint. The time factor to relating to if a physical restraint exceeds of two (2) hours, aligns and is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322(f)(2)(H).

Section 59010.2, Adopt Subd. (h)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(h), to specify that physical restraint must not exceed four (4) cumulative hours in a 24-hour period.

Rationale

The proposed regulation is necessary to reduce risk of injury from physical restraint, avoid excessive use of physical restraint, and is applicable to adults and children. The time factor that specifies that the physical restraint must not exceed four (4) cumulative hours in a 24-hour period aligns and is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322(f)(2)(G).

Section 59010.2, Adopt Subd. (h)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(h)(1), to specify that 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.

Rationale

The proposed regulation is necessary so that the consumer's authorized representative is made aware of the duration of physical restraint and to ensure the appropriate professionals assess individuals who may require a higher level of care when physical restraint is required for an extended duration. The proposed regulation is also necessary because it aligns and is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322(f)(2)(G) 1.

Section 59010.2, Adopt Subd. (i)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(i), to specify that within 48 hours of a physical restraint of 60 cumulative minutes or longer that occurred in a 24-hour period, the consumer's needs and services plan must be reviewed by the Individual Behavior Supports Team and modified as needed.

Rationale

The proposed regulation is necessary to ensure the Individual Behavior Supports Team evaluates the use of physical restraint lasting longer than 60 minutes and revises the needs and services plan as needed to include interventions and strategies likely to reduce the need for physical restraint. The proposed regulation is also necessary to ensure the protection, safety, health and well-being of the consumer.

Adopt Section 59010.3 Assessment of Potential Physical Injury After Each Use of Physical Restraint.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3, entitled Assessment of Potential Physical Injury After Each Use of Physical Restraint and Subsections (a)-(f) to specify the details and requirements for assessment of potential physical injury after each use of physical restraint.

Rationale

The proposed regulation is necessary to specify and clarify the specific details and requirements for assessing an individual after the use of physical restraint so that Community Crisis Home providers understand what is required for the health and safety of the consumers.

Section 59010.3, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(a), to specify what is required within 30 minutes after termination of each use of physical restraint.

Rationale

The proposed regulation requiring the time-factor of 30 minutes after termination of each use of physical restraint is necessary to specify and clarify the need for timely assessment of the consumer's physical and psychological needs and well-being following the use of physical restraint.

Section 59010.3, Adopt Subd. (a)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(a)(1), to specify and require within 30 minutes after termination of each use of physical restraint, the administrator or their designee shall assess in-person the consumer's immediate needs and physical well-being for potential physical injury after each use of physical restraint.

Rationale

The proposed regulation is necessary to specify and clarify the specific details for assessing an individual after the use of physical restraint so that Community Crisis Home providers understand what is required for the consumer's health, safety and well-being. The time-factor requiring an in-person assessment of the consumer be conducted by the administrator or their designee within 30 minutes after the termination of each use of physical restraint is necessary to ensure the consumer's immediate needs and physical well-being is addressed in a timely manner.

Section 59010.3, Adopt Subd. (a)(1)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(a)(1)(A), to require within 30 minutes after termination of each use of physical restraint, a qualified medical professional to assess the consumer in order to serve the consumer's needs and ensuring safety and treatment for injury as soon as possible, if necessary.

Rationale

The regulation is necessary to specify that an assessment by a qualified medical professional is required if there is physical injury or suspected physical injury. This requirement is necessary to ensure an assessment for the need of adequate and timely medical care is provided in the event there is injury or suspected injury following the use of physical restraint. The time-factor requiring an assessment by a qualified medical professional within 30 minutes after the termination of each use of physical restraint is necessary to ensure the consumer's medical needs and physical well-being are addressed in a timely manner.

Section 59010.3, Adopt Subd. (a)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(a)(2), to require within 30 minutes after termination of each use of physical restraint, that the administrator or their designee conduct an in-person assessment of the consumer's psychological well-being and need for emotional support.

Rationale

The proposed regulation is necessary to ensure the consumer receives timely care and support needed following the use of physical restraint. The time-factor requiring the administrator, or their designee conduct an in-person assessment of the consumer's psychological well-being and need for emotional support within 30 minutes after the termination of each use of physical restraint is necessary to ensure the consumer's psychological needs and are addressed in a timely manner.

Section 59010.3, Adopt Subd. (a)(2)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(a)(2)(A), to require within 30 minutes after termination of each use of physical restraint, for ensuring coordination of treatment for suspected psychological trauma.

Rationale

The proposed regulation that includes the time-factor of within 30 minutes after termination of each use of physical restraint, is necessary to ensure a timely and adequate assessment of the consumers mental and emotional needs from a trauma-informed perspective and ensures the consumer receives treatment for trauma, if necessary.

Section 59010.3, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(b), to specify the requirements within four (4) hours after each use of physical restraint.

Rationale

The proposed regulation includes the time-factor of within 4 hours after each use of physical restraint and is necessary to ensure timely documentation and staff assessment requirements following the use of physical restraint.

Section 59010.3, Adopt Subd. (b)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(b)(1), to specify that if medical attention is sought, it must be documented in the consumer's file, and reported to the Department within four (4) hours after each use of physical restraint.

Rationale

The proposed regulation includes the time-factor of within 4 hours after each use of physical restraint and is necessary to ensure accurate and timely documentation of the facts related to the medical attention sought and staff assessment following the use of physical restraint. The documentation and reporting requirements are necessary to allow for ongoing evaluation and careful consideration of the outcomes from the use of restraint. This information is invaluable and can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary. The reporting to the Department is also necessary for tracking and monitoring purposes and to ensure all requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59010.3, Adopt Subd. (b)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(b)(2), to specify that the administrator or their 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.

Rationale

The proposed regulation that includes the time-factor requiring within four (4) hours after each use of physical restraint, is necessary to ensure timely and adequate assessment of the physical and psychological well-being of staff involved in physical restraint, as well as those who witnessed the restraint, and identified needs are addressed using trauma-informed care.

Section 59010.3, Adopt Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(c), to specify 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 administrator or their designee within two (2) hours.

Rationale

The proposed regulation is necessary to ensure timely and adequate assessment and notification of injury or suspected injury are made to the administrator and documented to remain consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 80061. Two (2) hours provides staff adequate time to assess for potential injury, coordinate immediate care if

needed, and provide notification to the administrator. It also allows for adequate time to complete the required written incident report while the details of the event are still fresh.

Section 59010.3, Adopt Subd. (d)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(d), to specify a written incident report must be submitted to the Department of Social Services and the regional center as specified by Title 22, CCR, Section 80061.

Rationale

The proposed regulation necessary to ensure written incident reports are submitted to the Department of Social Services, as required by Title 22, CCR, Section 80061.

Section 59010.3, Adopt Subd. (e)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(e), to specify suspected serious bodily injury, as defined in W&I Code, Section 15610.67, shall be reported within (two) 2 hours to a qualified medical professional for examination.

Rationale

The proposed regulation is necessary to ensure consumers receive timely and adequate medical attention and assessment for their protection, health, safety, and well-being.

Section 59010.3, Adopt Subd. (f)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.3(f), to require the regional center to submit a copy of the incident report to the Department at the specified email address within two (2) working days following receipt of the report as specified in Section 54327.1(a).

Rationale

The proposed regulation is necessary to ensure incidences are documented and reported to the Department of Social Services and the Department of Developmental Services in a timely manner. The requirement to be reported within two (2) working days following the receipt of the report as specified in Section 54327.1(a), is necessary for the department to be made aware in order to be able to determine if additional supports or services are needed for the consumer and to ensure the protection, health, safety, and well-being of all

participants. The proposed regulation is also necessary because it indicates where, when and how the to submit the report.

Adopt Section 59010.4. Debriefing After the Use of Physical Restraint.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4, entitled Debriefing After the Use of Physical Restraint and Subsections (a)-(g), to specify the debriefing requirements after the use of physical restraint.

Rationale

The proposed regulation is necessary to ensure there is adequate assessment of the events leading to the use of physical restraint and alternative methods that can be used to prevent the use of physical restraint in the future. Furthermore, the proposed regulations are necessary for the health, safety, protection and well-being of consumers.

Section 59010.4, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(a), to specify that 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.

Rationale

The proposed regulation specifies a 24-hour timeframe which is necessary to ensure the timely review and discussion of the facts related to the event as closely to the event as possible. It is necessary and a best practice for a debriefing to occur within 24-hours in order to understand what happened and to try and prevent future incidences for the health, safety, protection and well-being of consumers. The debriefing is necessary for the possible future development, implementation, and modification of the Individual Behavior Supports Plan.

Section 59010.4, Adopt Subd. (b)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(b), to specify the attendees required to attend the debriefing meeting.

Rationale

The proposed regulation to list the minimum required attendees to participate in debriefing activities provides clarity to Community Crisis Home providers about

who must be afforded the opportunity to provide input to the team following the use of restraint.

Section 59010.4, Adopt Subd. (b)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(b)(1), to specify the consumer who was physically restrained must attend the debriefing, unless the consumer voluntarily declines.

Rationale

The proposed regulation is necessary to have the consumer as an attendee because the consumer was directly involved in the incident and will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59010.4, Adopt Subd. (b)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.2(b)(2), to specify the authorized consumer representative must attend the debriefing, if applicable.

Rationale

The proposed regulation is necessary to have the authorized consumer representative as an attendee, if applicable, because the authorized consumer representative will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59010.4, Adopt Subd. (b)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(b)(3), to specify the staff involved in the incident must attend the debriefing

Rationale

The proposed regulation to have the staff involved in the incident as attendees is necessary because they were directly involved in the incident and will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59010.4, Adopt Subd. (b)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(b)(4), to specify the administrator or their designee must attend the debriefing.

Rationale

The proposed regulation is necessary because the administrator or their designee will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59010.4, Adopt Subd. (b)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(b)(5), to specify that the facility's Qualified Behavior Modification Professional must attend the debriefing.

Rationale

The proposed regulation is necessary because the facility's Qualified Behavior Modification Professional will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59010.4, Adopt Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(c), to specify that the debriefing may also include individuals requested by the consumer.

Rationale

The proposed regulation is necessary so that the consumer may request the presence of other individuals who may provide additional support or comfort to them during debriefing activities, but the debriefing meeting should occur as required, even if these individuals are not able to attend.

Section 59010.4, Adopt Subd. (d)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(d), to specify that the clients' rights advocate and a regional center representative may also be included in debriefing activities with consumer approval, although they are not required to attend the debriefing. The debriefing meeting should occur as required, even if these individuals are not able to attend.

Rationale

The proposed regulation is necessary to ensure that the clients' rights advocate and regional center representative are invited to participate in the debriefing meeting, with approval of the consumer, but the debriefing meeting should occur as required, even if these individuals are not able to attend.

Section 59010.4, Adopt Subd. (e)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e), to specify the activities that must occur as a part of the debriefing.

Rationale

The proposed regulation is necessary to provide clarity about the activities that must occur as a part of the debriefing, including identification of the events that led to the use of restraint, alternative methods of responding to the incident, and identifying the need to provide additional staff training, or complete or update assessments and/or plans.

Section 59010.4, Adopt Subd. (e)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(1), to specify that the debriefing must include assisting the consumer with identifying the precipitant of the incident and suggest methods of more safely and constructively responding to the incident.

Rationale

The proposed regulation is necessary to help the consumer identify triggers or setting events that may have been a precipitant to the incident and review other ways they might respond in the future in similar circumstances that might deescalate the situation and reduce the likelihood of future physical restraint.

Section 59010.4, Adopt Subd. (e)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(2), to specify that the debriefing must include 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.

Rationale

The proposed regulation is necessary to help the staff involved in the incident identify triggers or setting events that may have been a precipitant to the

incident, including ways in which they could assist the consumer with engaging in alternative behaviors that will reduce further escalation and the likelihood of future use of physical restraint.

Section 59010.4, Subd. (e)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(3), to specify that the debriefing must include identifying what led to the incident and what factors contributed to the incident leading to the use of physical restraint.

Rationale

The proposed regulation is necessary to review precipitating factors leading to the use of physical restraint, which might include poor treatment integrity and/or the need to make modification to the Individual Behavior Supports Plan, which might prevent the use of physical restraint in the future.

Section 59010.4, Adopt Subd. (e)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(4), to specify the debriefing must include assessing alternative methods of responding to the incident that may have avoided the use of physical restraint.

Rationale

The proposed regulation is necessary to identify possible alternative methods of responding to the incident that may avoid use of physical restraint, that could be included in the review of Individual Behavior Supports Plan and Individualized Emergency Intervention Plan.

Section 59010.4, Adopt Subd. (e)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(5), to specify that the debriefing must include evaluating whether staff used emergency interventions consistent with the facility Emergency Intervention Plan, the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan, and staff training.

Rationale

The proposed regulation is necessary to ensure an evaluation of treatment integrity which helps the team identify if there was a breakdown in implementation and/or if modifications to the Emergency Intervention Plan and/or Individual Behavior Supports Plan or additional staff training are necessary.

Section 59010.4, Adopt Subd. (e)(6)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(6), to specify that the debriefing must include devising treatment interventions to address the root cause of the incident, its consequences, and modify the Individual Behavior Supports Plan and/or the Individualized Emergency Intervention Plan accordingly.

Rationale

The proposed regulation is necessary to address the root cause incident and its consequences to better understand the cause of the incident and use this information to lead to modifications in the Individual Behavior Supports Plan or Individualized Emergency Intervention Plan.

Section 59010.4, Adopt Subd. (e)(7)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(7), to specify that the debriefing must include evaluating whether the consumer was in a physical restraint for the least amount of time necessary.

Rationale

The proposed regulation is necessary to address the duration of physical restraint and ways to reduce time in physical restraint and to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59010.4, Adopt Subd. (e)(8)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(8), to specify that the debriefing must include 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.

Rationale

The proposed regulation is necessary to ensure staff attempted to utilize de-escalation techniques and fidelity of implementation is evaluated, which may lead to modification of the Individual Behavior Supports Plan and/or Individual Emergency Intervention Plan. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection, and well-being of consumers.

Section 59010.4, Adopt Subd. (e)(9)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(9), to specify that the debriefing must include determining whether their physical and psychological well-being and right to privacy were addressed appropriately.

Rationale

The proposed regulation is necessary to ensure evaluation of staff meeting the physical and psychological needs of the consumer during the incident and potential need for additional training and/or modification of the Individual Behavior Supports Plan. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59010.4, Adopt Subd. (e)(10)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(10), to specify that the debriefing must include considering treatment for any trauma that may have been experienced by the consumer as a result of the incident. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Rationale

The proposed regulation is necessary to utilize trauma-informed care in the debriefing and identify any trauma-informed treatments or plans needed, if indicated. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59010.4, Adopt Subd. (e)(11)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(11), to specify that the debriefing must include identifying alternative ways of helping the consumer avoid or cope with difficult situations such as those that led to the use of physical restraint.

Rationale

The proposed regulation is necessary to ensure adequate identification and evaluation of functionally equivalent replacement behaviors detailed in the Individual Behavior Supports Plan and inform modifications needed. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59010.4, Adopt Subd. (e)(12)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(e)(12), to specify that the debriefing must include 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 medical variables.

Rationale

The proposed regulation requires the team to determine if additional or updated assessments or plan revisions are necessary and/or if there is a need to provide additional staff training following debriefing activities. The team is required to ensure these activities are completed to ensure the health, safety, protection and well-being of consumers.

Section 59010.4, Adopt Subd. (f)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(f), to specify the documentation requirements for the debriefing meeting.

Rationale

The proposed regulation is necessary to include required elements in the documentation of the debriefing.

Section 59010.4, Adopt Subd. (f)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(f)(1), to specify that the debriefing must document the findings of the activities in Subdivisions (e)(1)-(12).

Rationale

The proposed regulation is necessary to ensure required components of the debriefing noted in Subsection 59010.4 (e)(1)-(12), are documented. Documentation and thorough consumer files are vital to provide safe environment and helps provide historical information necessary for both planning and accountability. This documentation allows for ongoing evaluation and careful consideration of the factors contributing to the use of restraint and data trends. This information is invaluable and can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59010.4, Adopt Subd. (f)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(f)(2), to specify that the debriefing must document any revisions needed to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan to better serve the consumer.

Rationale

The proposed regulation is necessary to ensure the debriefing team identify specific revisions that might be necessary in the Individual Behavior Supports Plan and/or the Individualized Emergency Intervention Plan. Identified revisions will be used to better serve the consumer, such as steps that could be utilized to avoid future use of physical restraint and to ensure the health, safety, protection and well-being of consumers.

Section 59010.4, Adopt Subd. (f)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(f)(3), to specify that the debriefing must document if the consumer refuses to participate in the debriefing activities.

Rationale

The proposed regulation is necessary to document the consumer's choice to decline to attend the debriefing to verify that the choice to attend was offered. Documentation and thorough consumer files are vital to provide safe environment and helps provide historical information necessary for future planning and discussions.

Section 59010.4, Adopt Subd. (f)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(f)(4), to specify that the debriefing must document the physical and psychological well-being anyone who observed the physical restraint.

Rationale

The proposed regulation is necessary to identify and address the physical and psychological impact on any individual who observed the physical restraint. Documentation and thorough facility files are vital to provide safe environment and helps provide historical information necessary for future planning and discussions. The proposed regulations are necessary to ensure the health, safety, protection, and well-being of consumers.

Section 59010.4, Adopt Subd. (f)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(f)(5), to specify that the debriefing must document evidence that less restrictive, nonphysical strategies were attempted first and without success.

Rationale

The proposed regulation is necessary to document that less restrictive measures were attempted and to identify steps in the Individual Behavior Support Plan that were ineffective and may require modifications to the Individual Behavior Support Plan. Documentation and thorough facility files are vital to provide safe environment and helps provide historical information necessary for future planning and discussions. The proposed regulations are necessary to ensure the health, safety, protection, and well-being of consumers.

Section 59010.4, Adopt Subd. (g)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.4(g), to specify that in addition to a review of each incident of physical restraint, 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.

Rationale

The proposed regulation is necessary to ensure multiple uses of physical restraint and any dangerous behavior, such as harm to self and others, is reviewed by the Individual Behavior Supports Team to develop plans to avoid multiple use of physical restraint and dangerous behaviors. The requirement for physical restraint used on more than three occasions within a three-month period and or the recurrence of consumer's dangerous behavior is necessary because it has been determined to be the best practice to ensure the safety, protection and well-being of consumers. The proposed regulation is necessary in order to provide support or transition needs and alternatives to physical restraint. The time requirement to update the Individual Behavior Supports Plan within five business days is necessary because it provides enough time for staff to evaluate and consider remedies and make adjustments in a timely manner.

Adopt Section 59010.5. Restraint Data Reporting.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5, entitled Restraint Data Reporting to

specify the requirements for reporting data for each instance of the use of physical restraint and on a monthly basis to the Department of Developmental Services when behavioral restraint is used to control behavior.

Rationale

The proposed regulation provides information that is necessary to establish a system of consistent and timely data collection and reporting regarding the use of restraint.

Section 59010.5, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a), entitled Emergency Intervention Documentation and Reporting Requirements.

Rationale

The proposed regulation details information necessary to include in restraint use documentation and reporting in order to provide accurate documentation for improvement of supports and services that may be necessary to ensure the continued safety of the consumer.

Section 59010.5, Adopt Subd. (a)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(1), to require that the use of physical restraint be reported to the consumer's authorized representative, if any, by phone no later than the next calendar day.

Rationale

The proposed regulation is necessary to ensure the use of restraint is communicated to the consumer's authorized representative, if any, so that the consumer's authorized representative is made aware in a timely manner.

Section 59010.5, Adopt Subd. (a)(1)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(1)(A), to require that the use of physical restraint be reported to the consumer's authorized representative, if any, by telephone, no later than the next calendar day and include the type of emergency intervention used and the duration of the physical restraint.

Rationale

The proposed regulation is necessary to ensure the use of restraint is communicated to the consumer's authorized representative, if any, so that the

consumer's authorized representative is made aware of the details of the type of emergency intervention used and the duration of the physical restraint.

Section 59010.5, Adopt Subd. (a)(1)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(1)(B), to require the date and time the use of physical restraint was reported to the authorized consumer representative, and the date, time, and response of the authorized consumer representative, shall be documented in the consumer's file.

Rationale

The proposed regulation is necessary to ensure the use of restraint is communicated to the consumer's authorized representative, if any, and ensures documentation of this communication with the authorized representative is recorded, including their response. The proposed regulation is necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59010.5, Adopt Subd. (a)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(2), to require when, where and how the use of a physical restraint shall be reported to the Department of Social Services and the Department of Developmental services.

Rationale

The proposed regulation is necessary to ensure the use of restraint is documented and reported to the Department of Social Service and the Department of Developmental Services in a timely manner. The requirement to be reported no later than the next business day is necessary for the department's reporting purposes and to be made aware in order to determine if additional supports or services are needed for the consumer for their protection, safety, health and well-being. The proposed regulation is also necessary because it indicates how, when and when the report is to be submitted to both departments.

Section 59010.5, Adopt Subd. (a)(2)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(2)(A), to require that the incident report of the use of physical restraint be reviewed for accuracy and completeness and signed by the licensee or their designee prior to submission to oversight agencies.

Rationale

The proposed regulation is necessary to ensure the licensee verifies the information included in the report is accurate and the report is complete prior to submission to the departments.

Section 59010.5, Adopt Subd. (a)(2)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(2)(B), to require that the licensee ensure physical restraint holds are consistent with the approved facility Emergency Intervention Plan, and if not, develops a corrective action plan to address the deficiencies.

Rationale

The proposed regulation is necessary to ensure the facility staff accurately implement physical restraints approved in the facility Emergency Intervention Plan which will maintain the health and safety of consumers in crisis. If staff use a non-approved physical restraint, the licensee must develop a corrective action which must require staff to repeat or obtain emergency intervention training. This plan must be submitted to oversight agencies.

Section 59010.5, Adopt Subd. (a)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3), to provide details of the information that must be included in the report of physical restraint submitted to oversight agencies in Subsection (a)(2).

Rationale

The proposed regulation is necessary to provide clarity on the details which must be included in the report of physical restraint.

Section 59010.5, Adopt Subd. (a)(3)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(A), to include in the report required in Subdivision (a)(2), a description of the events that led to the use of physical restraint including the consumers behavior and other factors.

Rationale

The proposed regulation is necessary to ensure evaluation and careful consideration of the events and other behaviors that led to the use of physical restraint are documented. This information can inform subsequent selection of

alterative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59010.5, Adopt Subd. (a)(3)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(B), to include in the report required in Subdivision (a)(2), a description of the physical restraint used and the duration of restraint.

Rationale

The proposed regulation is necessary to ensure the type and duration of physical restraint are documented. This information can inform subsequent selection of alterative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59010.5, Adopt Subd. (a)(3)(C)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(C), to include in the report required in Subdivision (a)(2), a description of non-physical interventions that were attempted prior to physical restraint and an explanation of why more restrictive interventions were necessary.

Rationale

The proposed regulation is necessary to ensure evaluation and careful consideration of non-physical interventions that were attempted and why more restrictive interventions were necessary are documented. This information can inform subsequent selection of alterative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59010.5, Adopt Subd. (a)(3)(D)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(D), to include in the report required in Subdivision (a)(2), a description of the consumer's verbal response, physical appearance, and any injuries sustained by the consumer and, if known, facility personnel, at the termination of the physical restraint, whether the injuries are related to the physical restraint, and how the licensee became aware of the injury.

Rationale

The proposed regulation is necessary to ensure evaluation and careful consideration of the consumers appearance and what they report at the time of restraint. This includes an assessment for injury and documentation of the injury related to the restraint and how the licensee became aware of the injury. This information is necessary to be reported because it will ensure timely treatment for any injuries. The proposed regulation is also necessary because it can inform subsequent selection of alterative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59010.5, Adopt Subd. (a)(3)(E)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(E), to include in the report required in Subdivision (a)(2), a description of injuries sustained by the consumer and/or staff, what type of medical treatment was sought and where, or an explanation of why medical treatment was not sought for injuries.

Rationale

The proposed regulation is necessary to ensure staff injuries sustained during physical restraint, the type of medical treatment sought, or an explanation of why no medical treatment was sought for the staff are reported so that the oversight agencies are made aware for and have the information for subsequent selection of alterative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan. The proposed regulation is necessary to ensure the future protection, health and safety of consumers and staff.

Section 59010.5, Adopt Subd. (a)(3)(F)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(F), to include in the report required in Subdivision (a)(2), the names of all facility personnel who participated or witnessed the physical restraint.

Rationale

The proposed regulation is necessary to ensure adequate documentation of the names of facility staff who witnessed or participated in physical restraint. This documentation allows the facility to maintain record of staff involvement in physical restraint and individuals to include in debriefing activities or investigations.

Section 59010.5, Adopt Subd. (a)(3)(G)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(G), to include in the report required in Subdivision (a)(2), the name of the administrator or their designee, who approved the continuation of physical restraint for more than 15 consecutive minutes.

Rationale

The proposed regulation is necessary to ensure there is documentation of the name of the administrator who approved restraint for longer than 15 minutes, in order to maintain a complete and accurate record of who was involved in the physical restraint and for inclusion in debriefing activities or investigations.

Section 59010.5, Adopt Subd. (a)(3)(H)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(H), to include in the report required in Subdivision (a)(2), if determined in the debriefing, as required in Title 17, California Code of Regulations, Section 59010.4, that facility personnel did not adequately attempt to prevent physical restraint, documentation of a description of what action(s) should have been taken by facility personnel to prevent physical restraint. This documentation shall also include what corrective action will be taken, or not taken, and why.

Rationale

The proposed regulation is necessary to ensure thoughtful evaluation and documentation of a corrective action plan which includes alternative approaches staff should implement to prevent the use of physical restraint if facility personnel do not adequately attempt to prevent the use of physical restraint.

Section 59010.5, Adopt Subd. (a)(3)(I)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(I), to include in the report, required in Subdivision (a)(2), if law enforcement was involved, a description of precipitating factors, including behaviors of others, which required police intervention.

Rationale

The proposed regulation is necessary to ensure documentation of events and behaviors that led to police involvement in the physical restraint incident.

Section 59010.5, Adopt Subd. (a)(3)(J)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(3)(J), to include in the report, required in Subdivision (a)(2), the date and time of other physical restraint involving the same consumer in the past 24-hours.

Rationale

The proposed regulation is necessary to ensure documentation to oversight agencies include comprehensive restraint data for the consumer for the past 24-hours including the date and time.

Section 59010.5, Adopt Subd. (a)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(4), to require documentation and reporting if it was necessary for the continued use of physical restraint beyond 15 consecutive minutes, in accordance with Section 59010.2.

Rationale

The proposed regulation is necessary to ensure clarity and consistency in reporting and documenting the continued use of restraint beyond 15 minutes. The proposed regulation is necessary for the protection, health, and safety of consumers.

Section 59010.5, Adopt Subd. (a)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(5), to require a copy of the report of physical restraint be available for review by oversight agencies and available upon request.

Rationale

The proposed regulation is necessary to provide transparency of the physical restraint reports and consistency and clarity in the maintenance of records. The proposed regulation is necessary for the protection, health, and safety of consumers.

Section 59010.5, Adopt Subd. (a)(6)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(6), to require that the information required to be included in the report described in Subdivision (a)(2) – (3) be

documented no later than the end of the working shift(s) for each staff member who participated in the physical restraint.

Rationale

The proposed adoption is necessary to ensure the use of restraint is documented by involved staff in a timely manner, for accuracy while the incident is fresh in their memory and before they leave the facility at the end of their shift.

Section 59010.5, Adopt Subd. (a)(7)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(7), to require that the licensee maintain a monthly log of information related to each use of physical restraint which is subsequently described.

Rationale

The proposed regulation is necessary to provide clarity and specify the information required to be included in the monthly log documenting each use of physical restraint.

Section 59010.5, Adopt Subd. (a)(7)(A)-(L)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(7)(A)-(L), including (G)1.-3, to require identifying and relevant information for each use of physical restraint to be documented in the monthly log, including the name of each consumer for which a physical restraint was used; the date, time, and duration of the physical restraint, the behaviors of others connected to the incident and contributing factors that led to the incident, the names and job titles of staff that participated in the physical restraint, the name of the administrator or their designee that approved the continuation of the physical restraint for more than 15 minutes, if applicable, a description of the physical restraint and type used, including: the outcome to the consumer, including injury or death; the outcome to the staff, including injury or death; and if an injury to the consumer or staff was serious, as defined in Health and Safety Code Section 1180.1(g). Also included is the total number of incidents with physical restraints per month, the total number of serious injuries per month, non-serious injuries per month and staff injuries per month.

Rationale

The proposed regulation is necessary to ensure there is accurate and specific documentation for each use of physical restraint. The required documentation allows for ongoing evaluation and careful consideration of the factors contributing to the use of restraint and data trends. This information is invaluable

and can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59010.5, Adopt Subd. (a)(8)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(a)(8), to require that the monthly physical restraint log be maintained at the facility and readily available for review by oversight agencies.

Rationale

The proposed regulation is necessary to ensure clarity and consistency with regulatory requirements related to records maintenance.

Section 59010.5, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(b), to require that the monthly log described in Subsection (a)(7) is provided the regional center and Department which details restraint data for each consumer each month. This allows for ongoing monitoring a tracking of the use of restraint and the ability to identify trends in data.

Rationale

The proposed regulation is necessary to ensure the use of supine restraint is documented and reported to the regional center and Department in a timely manner.

Section 59010.5, Adopt Subd. (c)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 6.5, Section 59010.5(c), to require that within 48 hours of the use of a supine restraint, the administrator will provide the regional center and Department a copy of the debriefing documentation to the specified address.

Rationale

The proposed adoption is necessary to ensure debriefing documentation is provided to the regional center and Department in a timely manner following the use of supine restraint. This allows the oversight agencies to ensure that the team evaluates the factors that led to the use of supine restraint, evaluates fidelity to plan implementation, ensure least restrictive interventions were attempted first, and alternatives to the use of supine restraint are continually

evaluated. The proposed is also necessary to provide the information on where and when to send the debriefing documentation. The requirement to send the documentation within 48 hours of the use of the supine restraint is necessary to provide timely notification so that the oversight agencies are made aware.

Article 7. Records Maintenance

Section 59011, Amend Subd. (b)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59011(b), to require a log of the hours per employee with the weekly staff schedules that are required to be maintained in the facility files.

Rationale

The proposed amendment is necessary to ensure there is documentation that supports the provision of services and supports by all staff. It is also necessary to include the log of the hours worked per employee specifically because sometimes the staff schedule is a static document, and when staff call out, these changes are not reflected. By requiring hours actually worked, the Department is able to ensure staffing rates, but also ensure that those staff serving are qualified to do so (i.e., if a lead calls out, is a lead equivalent filling in those hours).

Section 59011, Amend Subd. (c)(2)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59011(c)(2), to clarify that the lead staff are "direct care."

Rationale

The proposed amendment adds "direct care" and is necessary to provide clarity and consistency.

Section 59011, Amend Subd. (c)(5)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59011(c)(5), to add the requirement to include "promotion" with the hire and separation dates in the personnel records for staff working in the facilities.

Rationale

The proposed amendment to add the requirement to document and include the “promotion” dates in the personnel records for staff working in the facilities is necessary for recordkeeping and review and verification by oversight agencies.

Section 59011, Adopt Subd. (c)(6)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59011 (c)(6), to add the requirement for a log with the supervised hours recorded to be included in the personnel records of all Registered Behavior Technicians (RBTs).

Rationale

The proposed regulation is necessary to ensure supervision of behavior-analytic services is received at the necessary rate by a qualified Registered Behavior Technician Supervisor and that the supervision provided is documented. Documentation should be consistent with and include all components as required by the Behavior Analyst Certification Board.

Section 59011, Adopt Subd. (f)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59011 (f), to add the new requirement to include the documentation for regional center’s case management monitoring in the facility files.

Rationale

The proposed regulation is necessary to ensure documentation of the regional center’s required monthly face-to-face monitoring and evaluation of services provided in the Community Crisis Homes is maintained in the facility file for the review of the facility and oversight agencies.

Amend Section 59012

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59012, to add the specification each facility must maintain individual consumer files for each consumer at the facility.

Rationale

The proposed amendment is necessary to provide clarity that documentation listed in the following section must be maintained for each consumer in the facility.

Section 59012, Adopt Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59012(c), to include updated Individual Behavior Supports Plan in the facility file.

Rationale

The proposed regulation is necessary to clarify that copies of updated Individual Behavior Supports Plans must be maintained for each consumer which provided a historical account for interventions and supports and the degree to which they have been effective for each consumer. This information informs the development and utilization of current interventions and strategies.

Section 59012, Amend Subd. (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59012(e), to specify "Individual Program Plan," rather than "IPP," needs to be maintained in the consumer file.

Rationale

The proposed amendment is necessary to define the acronym IPP to Individual Program Plan for clarity and consistency.

Section 59012, Adopt Subd. (i)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59012(i), to ensure that the functional behavior assessment required by Section 59009(e)(2)(A), is included in the consumer file and accessible at the facility for review.

Rationale

The proposed regulation is necessary for consistency with Section 59009(e)(2)(A), and because it provides information regarding the implementation of other function-based and evidence-based services and supports developed by the Qualified Behavior Modification Professional (QBMP) and/or other consultants.

Section 59012, Adopt Subd. (j)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59012, to ensure that the functional behavior assessment is included in the consumer file and accessible at the facility for review to add the debrief documentation to consumer files.

Rationale

The proposed regulation is necessary for consistency and to ensure that the debrief documentation required by Section 59010.4(e), is included in the consumer file and accessible at the facility for review when necessary.

Section 59012, Adopt Subd. (k)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 7, Section 59012, to add any other records containing current emergency or health-related information for current customers to consumer files.

Rationale

The proposed regulation is necessary for consistency and to ensure that the health-related information is included in the consumer file and accessible at the facility for review when necessary.

Article 11. Rates

Section 59022, Amend Subd. (a)(1)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 11, Section 59022(a)(1) to provide the procedures for the development of rates for both facility costs and individual costs associated with residency, and specifics for payment of said rates for both group homes and adult residential facilities. The amendments update the forms incorporated by reference: DS 6023 Rate Development - Facility Costs (Rev 9/2021) and DS 6024 Rate Development - Individual Costs Associated with Residency: Form (Rev 9/2021).

Rationale

The proposed amendment is necessary to update the revised dates of the forms incorporated by reference in these sections of the regulation for consistency and clarity.

Section 59022, Adopt Subd. (a)(3)(B)3.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 11, Section 59022(a)(3)(B)3. to specify the requirements for the vendor and regional center to meet at six months from the initial placement of a consumer in the facility, and subsequently every 30 days thereafter, to determine if the portion of the facility rate funded through the contract due to the unfilled beds will continue.

Rationale

The proposed adoption is necessary to keep vendors accountable for serving consumers in need. Community placement plan funding was developed to increase crisis capacity. Without this language, vendors could move in one consumer and be paid the full facility rate without requirements to ever move in another consumer. Furthermore, the proposed adoption is necessary because it maximizes the use of the community placement plan funding.

Section 59022, Adopt Subd. (a)(3)(C)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 23, Article 11, Section 59022(a)(3)(C) to specify the requirements for the vendor and regional center to meet at 60 days of temporary vacancy, and at each subsequent 30 days, to determine if the portion of the facility rate funded through the contract due to the temporary vacancy will continue. Furthermore, “temporary vacancy” is defined as a vacancy of 60 days or fewer.

Rationale

The proposed adoption is necessary to discourage extended vacancies. Because the regulation includes provisions requiring continued payment of the vacant prorated portion, it is necessary to have these vacancies reviewed at regular intervals to ensure vendors are accountable for serving consumers in need. Without this language, vendors could move in one consumer and be paid the full facility rate without requirements to ever move in another consumer. Furthermore, the proposed adoption is necessary because it maximizes the use of the community placement plan funding.

Section 59022, Amend Subd. (b)(1)

Purpose

This proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 11, Section 59022(b)(1), to provide procedures for the development of rates for both facility costs and individual costs associated with residency, and specifics for payment of said rates for both group homes and adult residential facilities. The amendments update the forms incorporated by reference: DS 6023 Rate Development - Facility Costs (Rev 9/2021) and DS 6024 Rate Development - Individual Costs Associated with Residency: Form (Rev 9/2021).

Rationale

The proposed amendment is necessary to update the revised dates of the forms incorporated by reference in these sections of the regulation for consistency and clarity.

Section 59022, Amend Subd. (b)(3)(D)

Purpose

This proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 11, Section 59022(b)(3)(D) to provide the procedures for the development of rates for both facility costs and individual costs associated with residency, and specifics for payment of said rates for both group homes and adult residential facilities. The amendments also establish the difference between adult and child residency time frames and identifies that any days beyond the time frames must be approved by the Department, as outlined in 59009.5 (b)(c)(d). Furthermore, the amendments update the forms incorporated by reference:

- DS 6023 Rate Development - Facility Costs (revised 9/2021); and
- DS 6024 Rate Development - Individual Costs Associated with Residency: Form (Rev 9/2021).

Rationale

The proposed amendment is necessary to update the revised dates of the forms incorporated by reference in these sections of the regulation for consistency and clarity. Additionally, it is necessary to provide information to the provider and regional center on the requirement for and approval needed to extend residency.

Section 59022, Amend Subd. (f)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 23, Article 11, Section 59022(f), to provide the procedures for the development of rates for both facility costs and individual costs associated with residency, and specifics for payment of said rates for both group homes and adult residential facilities. The amendments update the forms incorporated by reference:

DS 6023 Rate Development - Facility Costs (Rev 9/2021) and DS 6024 Rate Development - Individual Costs Associated with Residency: Form (Rev 9/2021).

Rationale

The proposed regulatory action is necessary to update the revised dates of the forms incorporated by reference in these sections of the regulation for consistency and clarity.

Subchapter 24. Enhanced Behavioral Supports Homes
Article 1. Definitions

Amend Section 59050. Definitions.

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050, to reformat and number each definition and to specify the terminology that is used by current statutes and the Enhanced Behavioral Supports Homes regulations. The amendments will clarify how these terms are utilized for Enhanced Behavioral Supports Homes.

Rationale

The proposed amendments will clarify and provide detailed definitions which are necessary to specify the meaning of the new terms and clarify existing terms used throughout the Enhanced Behavioral Supports Homes regulations. Furthermore, these definitions are necessary to improve the transparency, comprehensibility, and consistency of the new terms in the Enhanced Behavioral Supports Homes regulations in order to help ensure safe and appropriate care.

Section 59050, Amend Subd. (a)(1) Administrator.

Purpose

The proposed regulatory action would amend the definition for the term “administrator” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050, Subdivision (a)(1), to meet the additional administrator qualification requirements of Section 59054, and to align with the existing Community Crisis Homes definition in Title 17, CCR, Section 59000(a)(1).

Rationale

The proposed amendment is necessary for consistency and clarity of the term as used throughout the regulation and to be consistent with the definition of the term as defined in the Community Crisis Homes regulation set forth in Title 17, CCR, Section 59000(a)(1) and the Department of Social Services regulations set forth in Title 22, CCR, Section 80001(a)(2).

Section 59050, Amend Subd. (a)(2) Assistant Behavior Analyst.

Purpose

The proposed regulatory action would amend the definition for the term “assistant behavior analyst” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(2), to remove the term “individual” and replace it with the term “person.”

Rationale

The proposed amendment is necessary to provide clarity and consistency of the term as used throughout the regulation and in order to align the definition of the term as defined in the Department of Social Services regulations set forth in Title 22, CCR, Section 89901(a)(1), and the definition in the Community Crisis Homes regulation set forth in Title 17, CCR, Section 59000(a)(2). The proposed amendment is also necessary to provide consistency with the term as used throughout the regulations.

Section 59050, Amend Subd. (a)(3) Authorized Consumer Representative

Purpose

The proposed regulatory action would amend the definition for the term “Authorized Consumer Representative” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(3), to change the term “minor” to “child” as defined in Department of Social Services regulations set forth in Title 22, CCR, Section 84001(c)(2), and to ensure consistency with the term as defined in the Community Crisis Homes regulation set forth in Section 59000(a)(3).

Rationale

The proposed amendment is necessary for clarity of the term as used throughout the regulation and in order to be consistent with the term as defined in the Community Crisis Homes regulation set forth in Section 59000(a)(3), and the Department of Social Services regulations set forth in Title 22, CCR, Section 84001(c)(2).

Section 59050, Amend Subd. (a)(4) Behavior Analyst.

Purpose

The proposed regulatory action would amend the definition for the term “behavior analyst” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(4), to remove “an individual who is” and replace it with “a person.”

Rationale

The proposed amendment is necessary to provide clarity and consistency of the term as used throughout the regulation and in order to align the definition of the term as defined in the Department of Social Services regulations set forth in Title 22, CCR, Section 89901(b)(1), and the definition in the Community Crisis Homes regulation set forth in Title 17, CCR, Section 59000(a)(4). The proposed amendment is also necessary to provide consistency with the term as used throughout the regulations.

Section 59050, Adopt new Subd. (a)(5) Behavioral Restraint.

Purpose

The proposed regulatory action would add and define term “Behavioral Restraint” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(5), to describe and provide a clear understanding for the affected public of this type of intervention that may be used when a person presents an immediate danger to themselves or others.

Rationale

The proposed regulation is necessary in order to provide a clear understanding of the term as used in this regulation. Furthermore, this definition cites to the term as defined in H&SC, Section 1180.1(a), for consistency.

Section 59050, Adopt new Subd. (a)(6) Child.

Purpose

The proposed regulatory action would add a definition for the term “child” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(6), in order to describe and provide a clear understanding of the term as used in the regulation.

Rationale

The proposed regulation is necessary to provide a clear understanding of the term as used in this regulation and align with the Department of Social Services definition as set forth in Title 22, CCR, Section 84001(c)(2), and the Community Crisis Homes regulations set forth in Section 59000(a)(6), and to ensure that the defined terms in those regulations are consistent and do not conflict.

Section 59050, Amend Subd. (a)(8) Consultant.

Purpose

The proposed regulatory action would amend the definition for the term “consultant” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(8). The proposed amendment changes the term “individual” to “person” because the term “person” is more appropriate and provides consistency with the existing definition in the Community Crisis Homes regulations set forth in Section 59000(a)(8). Additional amendments to this section are nonsubstantive. The words “or other individual” are stricken and replaced with “and,” and “who” is stricken and replaced with “that.”

Rationale

The proposed amendments are necessary to ensure the terms used throughout the regulations are consistent and that the definition mirrors the definition of the term in the Community Crisis Homes regulations set forth in Section 59000(a)(8).

Section 59050, Amend Subd. (a)(9) Consumer.

Purpose

The proposed regulatory action would amend the definition for the term “consumer” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(9). The proposed amendment changes the term “individual” to “person” because the term “person” is more appropriate and provides consistency with the existing definition in the Community Crisis Homes regulations set forth in Section 59000(a)(9). The definition also adds clarifying language “consumer is also known as “client,” for consistency with the existing definition in the Community Crisis Homes regulations set forth in Section 59000(a)(9).

Rationale

The proposed amendment is necessary for clarity and consistency throughout the regulation because these terms are used inconsistently throughout the Enhanced Behavioral Supports Homes regulations.

Section 59050, Adopt new Subd. (a)(10) Community Emergency Services.

Purpose

The proposed regulatory action would add and define the new term “Community Emergency Services” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(10), because the new term is used throughout the proposed regulations.

Rationale

The proposed adoption to add and define the term “Community Emergency Services” is necessary for clarity in order to provide a clear understanding of the term as used in this regulation. The definition is consistent with the understanding by the general public and professionals. Furthermore, the terms used to define “Community Emergency Services” are common terms already defined or used throughout the existing regulation.

Section 59050, Adopt new Subd. (a)(11) Containment.

Purpose

The proposed regulatory action would add a definition for the new term “Containment” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(11), because the term is used throughout the proposed regulations.

Rationale

The proposed regulation to add and define the term “containment” is necessary in order to provide a clear understanding of the new term as used in this regulation. This definition is consistent with H&SC, Section 1180.1(b). Furthermore, this definition is necessary so that consumers who are in crisis are

cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Adopt new Subd. (a)(13) Culturally competent and linguistically appropriate.

Purpose

The proposed regulatory action would add a definition for the new term "Culturally competent and linguistically appropriate" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(13), because the term is used in the proposed regulations.

Rationale

The proposed adoption to add and define the term "culturally competent and linguistically appropriate" is necessary in order to provide a clear understanding of the new term as used in this regulation. This definition is consistent with W&I Code, Section 5840.6 and 42, United States Code 15001, Section 101(a)(8). Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Adopt new Subd. (a)(17) Dual Agency Client.

Purpose

The proposed regulatory action would add and define the term "Dual Agency Client" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(17), because the term is used in the proposed regulations.

Rationale

The proposed adoption to add and define "Dual Agency Client" is necessary in order to provide a clear understanding of the term as used in this regulation. This definition is consistent with H&SC, Sections 1567.81 and 1567.62.

Section 59050, Amend Subd. (a)(19) Emergency Intervention Plan.

Purpose

The proposed regulatory action would amend the definition for the term "Emergency Interventions" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(19), by adding the specifications required in Section 59052(a)(7)(D), which specifies the contents of the emergency plan.

Rationale

The proposed amendment to update the definition of "Emergency Intervention(s)" is necessary in order to provide a clear understanding of the specifications for Emergency Interventions in Section 59052(a)(7)(D) and for consistency with term as defined in the Community Crisis Homes regulations, as set forth in Section 59000(a)(21).

Section 59050, Adopt new Subd. (a)(22) Extended Procedure.

Purpose

The proposed regulatory action would add and define the term “Extended Procedure” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(22) because the new term is used in the proposed regulations.

Rationale

The proposed regulation to add and define “Extended Procedure” is necessary to provide a clear understanding of the term as used in the proposed regulations. The definition is consistent with H&SC, Section 1180.4(h). Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Amend Subd. (a)(23)

Purpose

The proposed regulatory action includes nonsubstantive changes in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(23), by removing the pronouns “his or her” and replacing with the gender-neutral term “their” to avoid the use of gender pronouns.

Rationale

The proposed regulation replaces gendered pronouns with gender-neutral language is necessary to reflect changing societal norms, make the regulation more inclusive, and respect those that don't identify as male or female.

Section 59050, Adopt new Subd. (a)(24) Functional Behavior Assessment.

Purpose

The proposed regulatory action would add and define the term “Functional Behavior Assessment” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(24) because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define “Functional Behavior Assessment” is necessary to clarify the meaning and provide a clear understanding of the term as used in the regulation. Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Amend Subd. (a)(26) Individual Behavior Supports Plan.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Plan” in Title 17, Division 2, Chapter 3,

Subchapter 24, Article 1, Section 59050(a)(26) to add specifications that the plan includes requirements of H&SC, Section 1180.4(a) and align with the term as defined in the Community Crisis Homes regulations set forth in Section 59000(a)(27).

Rationale

The proposed amendment is necessary to add specifications that the plan includes requirements of H&SC, Section 1180.4(a) in order to be consistent with existing statute and the Community Crisis Homes regulations set forth in Section 59000(a)(27).

Section 59050, Amend Subd. (a)(27) Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Team” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(27), to align with the term as defined in the Community Crisis Homes regulations set forth in Section 59000(a)(28), by striking out the words “contribute to” and replacing with “participate in” for consistency.

Rationale

The proposed amendments to the regulations are necessary for clarity and consistency with the existing Community Crisis Homes regulations set forth in Section 59000(a)(28).

Section 59050, Amend Subd. (a)(27)(A)5. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Team” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(27)(A)5., to clean up the regulation and removing unnecessary words that may cause confusion by striking out “Regional center”, and “on his or her own behalf to participation by the clients’ rights advocate; and”.

Rationale

The proposed amendments are necessary to provide clarity and consistency and align with the existing definition in the Community Crisis Homes regulations, set forth in Section 59000(a)(28).

Section 59050, Amend Subd. (a)(27)(A)6. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Team” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(27)(A)6., by removing “Any other

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” from being required to be part of the Individual Behavior Supports Team. This team member has been moved down to be optional in new Subd. (a)(27)(B)4.

Rationale

The proposed amendments change the requirement that any other individual(s) deemed necessary by the consumer or his or her authorized consumer representative, if any, for developing a comprehensive and effective Individual Behavior Supports Plan” to be required to be part of the Individual Behavior Supports Team to be optional and aligns the definition of Individual Behavior Supports Team with the Community Crisis Homes regulations set forth in Section 59000(a)(28). This is necessary to provide clarity and consistency with regulation and allow for other individuals deemed necessary for developing a comprehensive and effective Individual Behavior Supports Plan to participate when deemed necessary by the consumer, or, where applicable, his or her authorized representative.

Section 59050, Adopt new Subd. (a)(27)(B) and (B)1. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Team” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(27)(B) and (B)1., to identify other individuals who may participate as members of the Individual Behavior Supports Team.

Rationale

The proposed adoption allows the regional center's mobile crisis team and representative(s) from the responsible local education agency or agencies the option to participate as members of the Individual Behavior Supports Team which is necessary in order to provide an opportunity for an all-inclusive involvement of those responsible for who may provide support during a crisis or those who are providing an individual's educational services for collaboration and continuity of care across settings.

Section 59050, Adopt new Subd. (a)(27)(B)2. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term “Individual Behavior Supports Team” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(27)(B)2., to allow representative(s) from the consumer's prior residence and/or identified alternative future

community-based residential setting, as applicable, the option to participate as members of the Individual Behavior Supports Team.

Rationale

The proposed adoption to add the Representative(s) from the consumer's prior residence and/or identified alternative future community-based residential setting, as applicable, the option to participate as members of the Individual Behavior Supports Team is necessary in order to provide an opportunity for an all-inclusive involvement of those responsible for providing an individual's educational services for collaboration and continuity of care across settings.

Section 59050, Adopt new Subd. (a)(27)(B)3. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term "Individual Behavior Supports Team" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(27)(B)3., to add representative(s) from the responsible Local Education Agency or agencies the option to participate as members of the Individual Behavior Supports Team.

Rationale

The proposed regulation to add representative(s) from the responsible Local Education Agency or agencies, as defined in CEC, Section 49005.1(c), the option to participate as members of the Individual Behavior Supports Team is necessary in order to provide an opportunity for an all-inclusive involvement of those responsible for providing an individual's educational services for collaboration and continuity of care across settings.

Section 59050, Adopt new Subd. (a)(27)(B)4. Individual Behavior Supports Team.

Purpose

The proposed regulatory action would amend the definition for the term "Individual Behavior Supports Team" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(27)(B)4., to allow any other 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 agencies the option to participate as members of the Individual Behavior Supports Team.

Rationale

The proposed regulation to add any other 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 the option to participate as members of the Individual Behavior Supports Team is necessary in order to provide an opportunity for an

all-inclusive involvement of those responsible for providing an individual's educational services for collaboration and continuity of care across settings.

Section 59050, Adopt new Subd. (a)(28), (a)(28)(A), and (a)(28)(B) Individualized Emergency Intervention Plan.

Purpose

The proposed regulatory action would add and define the term “Individualized Emergency Intervention Plan” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(28), (a)(28)(A), and (a)(28)(B). The definition for the new term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define “Individualized Emergency Intervention Plan” is necessary to clarify the implementation of emergency intervention techniques by the licensee that will be used with a specific consumer and diffuse and safely resolve emerging crisis situations and strategies to minimize time spent in behavioral restraints. The definition is necessary to provide a clear understanding of the new term as used in the regulation. Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Amend Subd. (a)(29) Individual Program Plan (IPP).

Purpose

The proposed regulatory action would amend the term “Individual Program Plan (IPP)” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(29), to provide clarity by ensuring the use of consistent terms. The proposed amendment would also strike out the clarifying words “a regional center” and add “the” in front of planning team because planning team is defined.

Rationale

The proposed amendment to the definition for Individual Program Plan (IPP) is necessary to clarify the meaning by using consistent terms and removing unnecessary language that could be confusing in order to provide a clear understanding of the term as used in this regulation.

Section 59050, Adopt new Subd. (a)(30) Intensive Transition Services.

Purpose

The proposed regulatory action would add and define the term “Intensive Transition Services” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(30) because the new term is used in the proposed regulations.

Rationale

The proposed adoption to add and define “Intensive Transition Services” is necessary to clarify the meaning and provide a clear understanding of the term as used in this regulation. Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Adopt new Subd. (a)(31) Licensee.

Purpose

The proposed regulatory action would add and define the term “Licensee” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(31). The term and definition are proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add “Licensee” is necessary to clarify the meaning and provide a clear understanding of the term as used in this regulation. The definition is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 80001(l)(4). Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Adopt new Subd. (a)(32) Physical restraint.

Purpose

The proposed regulatory action would add and define the term “Physical restraint” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(32). The definition for the new term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed adoption to add “Physical restraint” is necessary to clarify the meaning and provide a clear understanding of the term as used in this regulation. The definition is consistent with H&SC, Section 1180.1 (d). Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Adopt Subd. (a)(34) Prone restraint.

Purpose

The proposed regulatory action would add and define the term “Prone restraint” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(34). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add and define the term “Prone restraint” is necessary to clarify the meaning and provide a clear understanding of the term as used in the regulation. Furthermore, this definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Amend Subd. (a)(35), (a)(35)(A), and (a)(35)(B) Qualified Behavior Modification Professional.

Purpose

The proposed regulatory action would amend the definition for the term “Qualified Behavior Modification Professional” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(35), (a)(36)(A), and (a)(36)(B), to provide consistency with the terms as used throughout the regulation, align it with the term as defined in the Community Crisis Homes regulations set forth in Section 59000(a)(36), replace the term “an individual” with “a person,” remove “certified by the national Behavior Analyst Certification Board as a Certified Assistant Behavior Analyst” from Subsection (A), remove “certified by the national Behavior Analyst Certification Board as a Certified Behavior Analyst” from Subsection (B), and renumber Subsections (A) through (F), for proper hierarchy format.

Rationale

The proposed nonsubstantive amendments are necessary for proper grammar and sentence structure to provide consistency throughout the regulation and align with Section 59050(a)(35). The proposed amendments to remove the language from Subsections (A) and (B) is duplicative because the terms are already defined and is necessary to be concise and provide clarity and use consistent terms throughout the regulations. It is also necessary to ensure the regulations have the proper hierarchy format.

Section 59050, Amend Subd. (a)(36) Registered Behavior Technician.

Purpose

The proposed regulatory action would amend the definition for the term “Registered Behavior Technician” in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(36), by replacing the term “an individual” with “a person” and deleting unnecessary words “who is” and “Certified.”

Rationale

The proposed amendment to correct the term individual to person in the definition for “Registered Behavior Technician” is necessary in order to provide consistency with term as used throughout the regulation. The proposed

amendment to remove the word "Certified" in front of Registered Behavior Technician is necessary for consistency and to align with and not conflict with the Community Crisis Homes regulations set forth in Section 59000(a)(37).

Section 59050, Adopt Subd. (a)(37) Seclusion.

Purpose

The proposed regulatory action would add and define the term "Seclusion" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(37). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed adoption is necessary to add "Seclusion" to clarify the meaning and provide a clear understanding of the new term as used in this regulation. The definition is consistent with H&SC, Section 1180.1(e). Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Adopt Subd. (a)(38) Supine restraint.

Purpose

The proposed regulatory action would add a definition for the term "Supine restraint" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(38). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed regulation to add "Supine restraint" is necessary to clarify the meaning and provide a clear understanding of the term as used in this regulation. Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Adopt Subd. (a)(40) Time-Out.

Purpose

The proposed regulatory action would add a definition for the term "time-out" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(40). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed adoption to add "time-out" is necessary to provide a definition as required pursuant to H&SC, Section 1180.1(e). The clarification to the meaning helps to provide a clear understanding of the term as used in this regulation.

Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Section 59050, Adopt Subd. (a)(41) Trauma-Informed Care.

Purpose

The proposed regulatory action would add a definition for the term "Trauma-Informed Care" in Title 17, Division 2, Chapter 3, Subchapter 24, Article 1, Section 59050(a)(41). The definition for the term is proposed to be added because the term is used in the proposed regulations.

Rationale

The proposed adoption to add "Trauma-Informed Care" is necessary to clarify the meaning and provide a clear understanding of the term as used in the regulation. Furthermore, the definition is necessary so that consumers who are in crisis are cared for in a safe, and therapeutically appropriate manner that promotes the consumer's well-being and ensures that their rights are preserved.

Article 2. General Requirements

Section 59051, Amend Subd. (d)

Purpose

The proposed regulatory action includes nonsubstantive changes in Title 17, Division 2, Chapter 3, Subchapter 24, Article 2, Section 59051(d), by removing the pronouns "his or her" and replacing with the gender-neutral term "their" to avoid the use of gender pronouns.

Rationale

The proposed regulation replaces gendered pronouns with gender-neutral language is necessary to reflect changing societal norms, make the regulation more inclusive, and respect those that don't identify as male or female.

Section 59051, Adopt Subd. (g)

Purpose

The proposed regulatory action would add a new requirement in Title 17, Division 2, Chapter 3, Subchapter 24, Article 2, Section 59051(g), for Enhanced Behavioral Supports Homes to maintain facility files as required by Section 59061 and consumer files as required by Section 59062.

Rationale

The proposed regulation is necessary to ensure adequate monitoring and oversight of the facilities by oversight agencies.

Section 59051, Adopt new Subd. (g)(1)

Purpose

The proposed regulatory action would add a new requirement in Title 17, Division 2, Chapter 3, Subchapter 24, Article 2, Section 59051(g)(1), for Enhanced Behavioral Support Homes to require a copy of the certification approval letter to be maintained in the facility file.

Rationale

The proposed regulation is necessary to ensure current approvals are maintained in a consistent place and readily available for review by oversight agencies.

Section 59051, Adopt new Subd. (g)(2)

Purpose

The proposed regulatory action would add a new requirement in Title 17, Division 2, Chapter 3, Subchapter 24, Article 2, Section 59051(g)(2), for Enhanced Behavioral Support Homes to require the facility and consumer files to be immediately available upon request of the Department and specifies that the file must be an original or a facsimile of the original.

Rationale

The proposed regulation is necessary for ongoing monitoring and oversight. Furthermore, this regulatory action is necessary to be consistent with the Department of Social Services regulations set forth in Title 22, CCR, and to ensure the security and integrity of both the consumer files and facility files.

Section 59051, Adopt new Subd. (g)(2)(A)

Purpose

The proposed regulatory action would add a new requirement in Title 17, Division 2, Chapter 3, Subchapter 24, Article 2, Section 59051(g)(2)(A) for Enhanced Behavioral Support Homes that any requests by oversight agencies for physical copies of the records, that the copies must be facsimile.

Rationale

The proposed regulation is necessary to ensure the integrity and security of the consumer and facility files by requiring the original records stay with the facility and the Department receives an exact copy of the record that exists. Furthermore, this regulatory action is necessary to be consistent with the Department of Social Services regulations set forth in Title 22, CCR.

Article 3. Facility Program Plan

Section 59052, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a), to add clarifying language that specifies that the applicant is for an Enhanced Behavioral Supports Home certification.

Rationale

The proposed amendment is necessary for clarity to prevent any confusion and aligns with the Community Crisis Homes regulations set forth in Section 59002(a).

Section 59052, Amend Subd. (a)(7)(A)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(A), to add clarifying language “if permitted” to the end of the subsection.

Rationale

The proposed amendment is necessary for clarity because not all facilities have delayed egress and secured perimeters. The proposed amendment is also necessary for consistency and to align with the existing Community Crisis Homes regulations set forth in Section 59002(a)(8)(A).

Section 59052, Amend Subd. (a)(7)(B)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(B), to add clarifying language “approximate” to indicate that the response time of the emergency medical services does not need to be exact.

Rationale

The proposed amendment to add “approximate” is necessary for clarity and acknowledging that it is not possible to determine an exact response time for emergency services to arrive and to clarify that the response time of the emergency medical services should be an estimate and for consistency and alignment with the existing Community Crisis Homes regulations as set forth in Section 59002(a)(8)(B).

Section 59052, Amend Subd. (a)(7)(C)

Purpose

The proposed regulatory action would amend the requirement for the facilities emergency procedures in Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(C), for Enhanced Behavioral Supports Home by removing “on a schedule.”

Rationale

The proposed amendment is to remove language that is not applicable and is necessary to correct grammar, avoid confusion, and provide clarity and consistency with Community Crisis Home regulations as set forth in Section 59002(a)(8)(C).

Section 59052, Adopt Subd. (a)(7)(D)1.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(D)1., to require the facility program plan to contain an Emergency Intervention Plan which includes a description of how the facility will ensure the proper application of emergency intervention techniques and the use of proper restraint or containment in Enhanced Behavioral Supports Homes licensed as a group home and adult residential facility, as set forth in Title 22, CCR, Sections 84300 and 85100, respectively, H&SC and Section 1180.4(h).

Rationale

The proposed regulation is necessary for the health, safety, and well-being of consumer's and staff by ensuring the facility program plan includes their Emergency Intervention Plan's description and details for how will ensure the appropriate use of emergency intervention techniques, including not using restraint as an extended procedure and specifying procedures for the authorized exception by the administrator if there is still risk of imminent serious injury or harm.

Section 59052, Adopt new Subd. (a)(7)(D)2.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(D)2., to require the contents of the facility's emergency intervention plan to include procedures for documenting each use of physical restraint in the consumer's file.

Rationale

The proposed regulation is necessary to make sure the facility's emergency plan has clear procedures for ongoing documentation each use of physical restraint and thorough consumer files. Documentation is vital to provide safe environment and helps provide historical information necessary for both

planning and accountability. This documentation allows for ongoing evaluation and careful consideration of the factors contributing to the use of restraint and data trends. This information is invaluable and can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary

Section 59052, Adopt Subd. (a)(7)(D)3.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(D)3., to require the contents of the emergency intervention plan to include procedures for reviewing each use of physical restraint with the consumer and authorized representative.

Rationale

The proposed regulation is necessary to ensure that the consumer and their authorized representative are included in the procedures for reviewing each use of physical restraint in order to provide them with awareness and the opportunity to provide input.

Section 59052, Adopt Subd. (a)(7)(D)4.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(D)4., to require the contents of the emergency intervention plan to include procedures for accessing community emergency services if the use of emergency interventions is not effective or appropriate.

Rationale

The proposed regulation is necessary to make sure the consumer, staff, and the authorized consumer representative are made aware of outside emergency services or resources that are available when emergency interventions are not effective for the protection, health, safety, and well-being of all participants.

Section 59052, Adopt Subd. (a)(7)(D)4.a.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(D)4.a., to clarify that the facility's procedures for accessing community emergency services must include the facility's procedures concerning when and how to involve law enforcement in response to an incident at the facility.

Rationale

The proposed regulation is necessary to make sure the program plan defines the procedures for when and how law enforcement or emergency services would be contacted in response to an incident at the facility to help ensure the protection, health, safety, and well-being of all participants.

Section 59052, Adopt Subd. (a)(7)(D)5.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(D)5., to require the contents of the facility's emergency intervention plan to include the requirements of Title 22, CCR, 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.

Rationale

The proposed regulation is necessary in order to provide consistency between both types of facilities and to ensure there are no conflicts with another state department who has been successful with their regulations and procedures.

Section 59052, Adopt Subd. (a)(7)(D)6.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(7)(D)6., to require the contents of the facility's emergency intervention plan to include an outline of procedures to be included in the Emergency Intervention Plan for the safety and well-being of the consumer and staff when an exception to the 15-minute restraint time limit is required.

Rationale

The proposed regulation to require an outline of procedures is necessary to help ensure consumer safety and welfare when staff are engaging in a restraint that goes beyond typical practice standards (i.e., 15 min. long). A predetermined outline will provide clarity to staff as well as the Individual Behavior Supports Team when determining best practice for that particular consumer and further encourages person centered services.

Section 59052, Amend Subd. (a)(9)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(9), to add the words "but is not limited to" for the methodologies used to measure consumer progress.

Rationale

The proposed amendment is necessary to allow for additional types of methodologies that may be used to measure consumer progress, and to align with the Community Crisis Homes regulations as set forth in Section 59002(a)(10).

Section 59052, Amend Subd. (a)(9)(A)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(9)(A), to add the words “and reported” after types of data to be collected.

Rationale

The proposed amendment is necessary to provide a clear understanding by clarifying that facility plan must detail the types of data to be collected and reported when used to measure consumer progress, including emergency interventions. This amendment is also necessary for consistency because it aligns with the existing Community Crisis Homes regulations, as set forth in Section 59002(a)(10)(A).

Section 59052, Amend Subd. (a)(12)(E)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(12)(E), to replace the term “individual” with “consumer” in in order to be consistent and align with the existing Community Crisis Homes regulations, as set forth in Section 59002(a)(13)(E).

Rationale

The proposed amendment is necessary to provide consistency with the terms as defined and used throughout the regulation and align with the existing definition in Section 59050(a)(9).

Section 59052, Amend Subd. (a)(12)(F)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(a)(12)(F), to add the requirement that medication shall be safely managed and “documented” as part of the facility’s Continuous Quality Improvement System and to align with the existing Community Crisis Homes regulations, as set forth in Section 59002(a)(10)(F).

Rationale

The proposed amendment to require documentation of medication is necessary for consistency with the existing Community Crisis Homes regulations, as set forth in Section 59002(a)(10)(F). The proposed regulation amendment is also

necessary for clarity to ensure the safety of consumers. The requirement for documentation is necessary because it also ensures the consumer, staff, and authorized representatives are made aware of how medication will be managed and the procedures for the health, safety, and well-being of all participants. Furthermore, the regulation amendment helps ensure accurate medication intake and allows for monitoring and quality control.

Section 59052, Adopt Subd. (a)(13)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052 to add new subdivision (a)(13), to require 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.

Rationale

The proposed amendment is recommended by stakeholders after collaboration with the State Department of Social Services, consumer advocates, and regional centers, and is necessary to highlight cultural and linguistic backgrounds as a diversity component in competency training and focus for administrators and staff to ensure the person's cultural and linguistic background are fully considered and included when making decisions on their needs.

Section 59052, Adopt Subd. (a)(14)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052 to add new subdivision (a)(14), to require the facility plan contains a description of how the facility licensed as a group home will ensure compliance with the placement duration limitations set forth in H&SC, Section 1567.81(d), governing placements of dual agency clients.

Rationale

The proposed amendment is necessary to clarify and specify the facility program plan's group home requirements for placement duration of dual agency clients and by providing requisite criteria and procedures pursuant to H&SC, Section 1567.81(d).

Section 59052, Amend Subd. (b)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 3, Section 59052(b) to change the term "applicant" to "licensee" to identify the appropriate signature required in the facility program plan.

Rationale

The proposed amendment is necessary to provide consistency with the terms as defined and used throughout the regulation.

Article 4. Personnel

Section 59056, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59056(a) to update the document incorporated by reference DS 6024 "Rate Development - Individual Costs Associated with Residency" to add the new revision date (Rev 9/2021).

Rationale

The proposed regulatory amendment to update the regulation text with latest version of the revised DS Form 6024 is necessary for consistency and clarity to assist the facilities with understanding of the proper form to submit to the Department for accurate billing and determination of eligibility of facility costs for federal reimbursement through the Home and Community-Based Services Waiver and 1915i State Plan Amendment (federal programs).

Section 59056, Amend Subd. (b)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59056(b) to update the cross references for the Subdivisions identified in Section 59057 by consolidating and combining them.

Rationale

The proposed regulation amendment to update the cross references is necessary for consistency and clarity.

Section 59056, Amend Subd. (c)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59056(c), to change the term "administrator" to "licensee" to appropriately and accurately identify whose responsibility it is to assign a Qualified Behavior Modification Professional to each consumer.

Rationale

The proposed amendments are necessary to provide consistency with the terms as defined and used throughout the regulation. The proposed amendment is also necessary for clarity in understanding who is responsible for assigning a Qualified Behavior Modification Professional to each consumer.

Section 59056, Amend Subd. (d)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59056(d), to clarify and add that each Enhanced Behavioral Support Home must have an administrator “present” and on duty for a minimum of 20 hours per week at each facility. Additionally, the proposed regulatory action would require documentation of the administrator’s time as present at each facility in each facility file.

Rationale

The proposed amendments are necessary to provide consistency with the terms as defined and used throughout the regulation. The documentation of the administrator’s time present at each facility in each facility file is necessary to be consistent with the documentation of the staffing requirements for each facility and subdivisions (c) and (e). Documentation of the administrator’s time present at each facility in each facility file is also necessary for verification by oversight agencies.

Section 59056, Amend Subd. (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59056(e) to change the term “administrator” to “licensee” to appropriately and accurately identify whose responsibility it is to ensure that staff caring for consumers participate in and maintain appropriate training. Additionally, the proposed regulatory action would require documentation of the consultant hours in the facility file.

Rationale

The proposed amendments are necessary to provide consistency with the terms as defined and used throughout the regulation. The documentation of the consultant hours is necessary to be consistent with the documentation of the staffing requirements for each facility and Subdivisions (c) and (d). Documentation of the consultant hours is also necessary for verification that the consultant hours meet the minimum requirements and oversight agencies have access to the documentation maintained in the facility file.

Section 59057, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(a) to change the term “administrator” to “licensee” and appropriately and accurately identify whose responsibility it is to ensure that each direct care staff caring for consumers complete the required 32 hours of on-site orientation within the first 40 hours of employment. The regulation amendment added that the on-site orientation must include, “but is

not limited to” and reorganized the regulations to provide a list to reduce any confusion related to the staff's training requirements.

Rationale

The proposed regulation amendment is necessary for clarity, transparency, and consistency of the staff's training requirements. The reorganization of the subsections that follow is necessary for staff to have a better understanding of the training requirements.

Section 59057, Amend Subd. (a)(1)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(a)(1), to remove “The specialized needs of each of the consumers” and add “Training required pursuant to Title 22, California Code of Regulations, Section 80065(j) – (n), as applicable to the facility's licensure type” which covers the training required for by licensure type for both group homes and adult residential facilities. The proposed amendments reorganize the section by renumbering the subsection to align with the Community Crisis Homes regulations as set forth in Section 59007(a). The proposed amendments also correct and update the cross reference to Title 22, from Section 80065(f) and 84065(i) to the correct section in Title 22 that specifies the staff training requirements in Section 80065(j) – (n), as applicable to the facility's licensure type.

Rationale

The proposed amendment to update the cross reference is necessary for consistency with the Department of Social Service's regulations where they recently expanded Title 22, CCR, Section 85365 to reference the provisions in Title 22, CCR, Sections 84065 and 85065 for Adult Residential Facilities (ARFs). The reorganization, renumbering and hierarchy non-substantive changes are necessary for purposes of providing clarity, proper grammar, and sentence structure. Furthermore, the amendments are necessary for transparency and comprehension to ensure staff are able maintain ongoing competence and confidence in dealing with crisis situations.

Section 59057, Amend Subd. (a)(2)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(a)(2), to remove language that duplicative because it pertains to the primary and secondary diagnoses that are set forth in Title 22, CCR, Section 85635(h). Furthermore, the proposed regulation and adds the “Overview of core concepts, including but not limited to:”.

Rationale

The proposed amendment is necessary to provide clear, concise regulatory language and to remove unnecessary language that is no longer applicable to the proposed regulations and clarify the core concepts for the training required. The proposed regulations are also necessary to align and provide consistency with the Department of Social Services regulations set forth in Title 22, CCR, Section 85365(h).

Section 59057, Adopt Subd. (a)(2)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(a)(2)(A), to add training related to “trauma-informed care” added and essential to ensure a strength-based approach is taken that anticipates and avoids processes and practices that are likely to result in trauma or to retraumatize individuals with a history of trauma.

Rationale

The proposed regulation is necessary because it upholds the importance of consumer participation in the development, delivery, and evaluation of services. Enhanced Behavioral Supports Homes and Community Crisis Homes were designed with three clinical tenets in mind – trauma informed care, person centered planning, and positive behavioral supports. Trauma-informed care helps ensure best-practice care is consistently provided to all consumers in the selection of interventions and strategies informed by experienced trauma history, that consumers and representatives have a voice regarding the treatment being provided, and that previous experiences inform the next decisions. By including “trauma-informed care” in the regulation, the Department is exemplifying the importance and foundation for this model of care.

Section 59057, Adopt Subd. (a)(2)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(a)(2)(B), to add training related to “Person-centered practices” to the on-site orientation training requirements for the overview of primary and secondary diagnoses to ensure staff are competent is using an individualized, person-centered approach to support and treatment.

Rationale

The proposed regulation is necessary because it upholds the importance of consumer participation in the development, delivery, and evaluation of services. Enhanced Behavioral Supports Homes and Community Crisis Homes were designed with three clinical tenets in mind – trauma informed care, person

centered planning, and positive behavioral supports. Person-centered practices help ensure that consumers and representatives voice is central to the treatment being provided, best-practice care is consistently provided to all consumers in the selection of interventions and strategies that carefully consider what is important to and what is important for the consumer, and that previous experiences inform the next decisions. By including “person-centered practices” in the regulation, the Department is exemplifying the importance and foundation for this model of care.

Section 59057, Adopt Subd. (a)(2)(C)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(a)(2)(C), to add training related to “Positive behavioral supports” to the on-site orientation training requirements for the overview of primary and secondary diagnoses to ensure staff understand and are competent in utilizing positive approaches to managing behavior that emphasize skill teaching and the utilization of functionally equivalent replacement behaviors and minimizes the use of aversive approaches or punishment as a means to reduce or control behavior.

Rationale

The proposed regulation is necessary because it upholds the importance of consumer participation in the development, delivery, and evaluation of services. Enhanced Behavioral Supports Homes and Community Crisis Homes were designed with three clinical tenets in mind – trauma informed care, person centered planning, and positive behavioral supports. Positive behavioral supports help ensure best-practice care is consistently provided to all consumers in the selection of positive, evidence-based treatments that emphasize enhancing skills and utilization of functionally equivalent replacement behaviors, that consumers and representatives have a voice regarding the treatment being provided, and that previous experiences inform the next decisions. By including “positive behavioral supports” in the regulation, the Department is exemplifying the importance and foundation for this model of care.

Section 59057, Adopt Subd. (a)(2)(D)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(a)(2)(D), to add “cultural competency” to the on-site orientation training requirements to ensure staff develop competence in cultural differences, beliefs, and norms and respond appropriately to the various consumer needs.

Rationale

The proposed regulation is necessary to ensure staff are trained to value diversity and understand and respond to cultural differences. Cultural competence training allows staff to support a consumer's culture, beliefs, and upholds the importance of consumer participation in the development, delivery, and evaluation of services.

Section 59057, Amend Subd. (a)(3)-(9)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057, and remove the language in Subsections (a)(3) – (a)(9), which is not necessary because it is duplicative of the requirements in Department of Social Services regulations, as set forth in Title 22, CCR, Section 85365.

Rationale

The proposed amendment is necessary to provide clear, concise regulatory language and remove the duplicative language that already exists in the cross-referenced Department of Social Services regulations, Title 22, CCR, Section 85365.

Section 59057, Amend Subd. (b)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(b), to add clarifying language that specifies the training requirements for Enhanced Behavioral Supports Homes licensed as a group home and an adult residential facility and to correct and update the cross references to Title 22. The proposed amendments also specify that the licensee is responsible for ensuring that direct care staff receive their minimum of 16 hours of emergency intervention training within the first 80 hours of employment.

Rationale

The proposed amendments are necessary to provide a clear understanding of the differing requirements for emergency intervention training in the two different types of Enhanced Behavioral Supports Homes, and to align and provide consistency with the Department of Social Services regulations set forth in Title 22. The specification requiring the licensee to be responsible for ensuring that direct care staff receive their minimum of 16 hours of emergency intervention training within the first 80 hours of employment is necessary to clarify when the required emergency intervention training must occur. The 16 hours of emergency intervention training must occur in within the first 80 hours of employment to ensure the staff caring for consumers are prepared in the event

of an emergency or crisis and for the health, protection, safety and well-being of themselves and consumers.

Section 59057, Amend Subd. (d)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(d) to remove language that is no longer applicable and to change the term “administrator” to “licensee” and appropriately and accurately identify whose responsibility it is 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.

Rationale

The proposed regulation amendment is necessary for clarity, transparency, and consistency of the terms as used in the regulation to ensure that staff caring for consumers in crisis participate in and maintain appropriate training.

Section 59057, Amend Subd. (d)(1)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(d)(1) to change the term “administrator” to “licensee” and appropriately and accurately identify whose responsibility it is to maintain the certification in facility personnel records.

Rationale

The proposed regulation amendment is necessary for clarity, transparency, and consistency of the terms as used in the regulation.

Section 59057, Amend Subd. (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59057(e) to change the term “administrator” to “licensee” and appropriately and accurately identify whose responsibility it is to ensure that direct care staff complete the competency-based training required by W&I Code, Section 4695.2(a) and (d).

Rationale

The proposed regulation amendment as necessary for clarity, transparency, and consistency of the terms as used in the regulation.

Section 59058, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058, Subdivision, (a) to update the appropriate cross references, change the term “administrator” to “licensee” to appropriately and accurately identify who is responsible for ensuring that staff caring for consumers in crisis participate in and maintain appropriate training. Furthermore, the proposed amendments would change the number of continuing education hours from 20 to 25 to add an additional five (5) hours for competency-based continuing education in the areas of person-centered practices, positive behavior supports, trauma-informed care, and cultural competency to ensure ongoing staff competency and confidence in dealing with consumers in a supportive and therapeutic manner.

Rationale

The proposed amendment requiring additional hours of training is necessary to ensure ongoing staff competency in the areas of person-centered practices, positive behavior supports, trauma-informed care, and cultural competency. It is also necessary to clarify that the licensee maintains responsibility in ensuring staff complete the required continuing education training requirements.

Section 59058, Adopt new Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058 new Subdivision (b) to require Enhanced Behavioral Supports Homes provide five (5) hours of competency-based continuing education in the areas of person-centered practices, positive behavioral supports, trauma-informed care, and cultural competency which may be counted towards the required hours in Subsection (a).

Rationale

The proposed regulation to add an additional five (5) hours of competency-based continuation education training requirements in the areas of person-centered practices, positive behavior supports, trauma-informed care, and cultural competency to ensure ongoing staff competency and confidence in dealing with consumers in a supportive and therapeutic manner.

Section 59058, Amend and renumber Subd. (a)(1) to new (c)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058, renumber Subdivision (a)(1) to (c) and add the specification the continuing education hours required by the Department of Social Services regulations, as set forth in Title 22, CCR, Section 84065(j), may be counted towards the required hours in Subsection (a).

Rationale

The proposed amendment is necessary because it clarifies the continuing education hours required by the Department of Social Services regulations, as set forth in Title 22, CCR, Section 84065(j), may be counted towards the required hours in Subsection (a).

Section 59058, Amend and renumber Subd. (b) to (d)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058 renumber Subdivision (b) to (d) and change the term “administrator” to “licensee” to identify appropriately and accurately who is responsible for ensuring that staff caring for consumers in crisis participate in and maintain appropriate training. The proposed action would also specify that “direct care staff” are responsible for completing additional continuing education, as necessary, to ensure the continued health and safety of each consumer.

Rationale

The proposed regulatory amendment is necessary for clarity, transparency, and consistency of the terms as used in the regulation. The regulation was not clear as to who is responsible for completing additional continuing education and specifies that it is the direct care staff who is required.

Section 59058, Amend and renumber Subd. (c) to (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058, renumber Subdivision (c) to (e) and correct the cross-reference citations due to the newly proposed regulations.

Rationale

The proposed amendment is necessary to provide consistency and clarity of the regulations.

Section 59058, Amend and renumber Subd. (d) to (f)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058, to renumber (d) to (f) and specify that in addition to the training requirements in Subsection (a), the licensee must ensure that direct care staff renew the 16 hours of emergency intervention training annually as required by Section 59057(c.)

Rationale

The proposed amendment is necessary to clarify that the licensee is responsible for ensuring the direct care staff renew the required emergency intervention training annually and that it is in addition to the training requirements in Subsection (a).

Section 59058, Adopt new Subd. (g)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, new Subsection 59058(g) to require the administrator provide monthly, 20 minutes (minimum) of refresher staff training that may be counted to meet the requirements of Subsection (f) and focuses on one of the emergency intervention and de-escalation strategies including the techniques the staff will use to prevent injury and maintain safety of consumers who are a danger to self or others. Furthermore, the refresher training must emphasize positive behavioral supports and techniques that are alternatives to physical restraint.

Rationale

The proposed amendment is necessary to ensure that staff receive monthly reminders that focus on one of the emergency intervention and de-escalation strategies including the techniques they will use to prevent injury and maintain safety of consumers who are a danger to self or others and clarifies that the monthly, 20 minutes (minimum) of refresher staff training is in addition to the training requirements in Subsection (a).

Section 59058, Adopt new Subd. (g)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058, new Subdivision (g)(1), to require the refresher training to focus on one of the emergency intervention and de-escalation strategies including the techniques the staff will use to prevent injury and maintain safety of consumers who are a danger to self or others.

Rationale

The proposed regulation is necessary to ensure staff are adequately trained and can appropriately implement the emergency intervention and de-escalation strategies during crisis situations which will maintain consumer and staff health and safety.

Section 59008, Adopt new Subd. (g)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058, new Subdivision (g)(2), to require the refresher training to emphasize trauma-informed positive behavioral supports and techniques that are alternatives to physical restraint.

Rationale

The proposed amendment is necessary to ensure staff are adequately trained and can appropriately implement alternatives to physical restraint using trauma-informed positive behavioral supports and techniques during crisis situations which will maintain consumer and staff health and safety.

Section 59058, Adopt new Subd. (g)(3)

Purpose

The proposed regulation would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058, new Subdivision (g)(3), to require that administrators of facilities approved to use supine restraint holds and ensures at least once per quarter, the monthly refresher staff training focused on practicing the use of supine restraint holds.

Rationale

The proposed amendment is necessary to ensure staff are regularly practicing the accurate use of the restrictive supine restraint hold. Regular and routine practice will ensure staff are adequately trained and can appropriately implement the emergency intervention hold during crisis situations which will maintain consumer and staff health and safety.

Section 59058, Adopt new Subd. (h)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 4, Section 59058, new Subdivision (h) to add the requirements to maintain certification or licensure, pursuant to 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.

Rationale

The proposed adoption is necessary to allow requirements to maintain certification or licensure to count towards up to fifty percent of the continuing education hours required when the subject matter is related to the population served for the year in which training is satisfactorily completed. This allowance reduces the burden to obtain continuing education hours in addition to those completed as required to maintain certification or licensure.

Article 5. Admission

Section 59059, Amend Subd. (b)(1), (c)(1), and (c)(2)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 5, Section 59059, Subdivisions (b)(1), (c)(1) and (c)(2) to specify that the Qualified Behavior Modification Professional is responsible for completing the written Individual Behavior Supports Plans, the functional behavior assessments, and updates to the written functional behavior assessments.

Rationale

The proposed regulation amendments are necessary to clarify confusion about who is responsible for completing and updating the written Individual Behavior Supports Plans and completing the Functional Behavior Assessments. The Administrator must ensure that the Functional Behavior Assessment and Individual Behavior Supports Plans be completed and updated by the Qualified Behavior Modification Professional with input from the Individual Behavior Supports Team.

Adopt New Article 5.5, Transition/Discharge

Purpose

The proposed regulatory action would add a new Article 5.5 to Title 17, Division 2, Chapter 3, Subchapter 24 for transition and discharge regulations for Enhanced Behavioral Supports Homes.

Rationale

The proposed regulation adds a new article for transition and discharge to the Enhanced Behavioral Supports Homes regulations and is necessary for consistency and clarity for the details related to transition and discharge for Enhanced Behavioral Supports Homes which may occur when a consumer residing in a group home may be aging out, for consumers utilizing secured perimeters in combination with delayed egress devices, or if enhanced services and supports can be reduced and transition planning has been agreed upon by the Individual Behavior Supports Team. At least monthly review of this plan ensure adequate transition activities are occurring in a timely manner including the development and ongoing evaluation of measurable transition goals and identification of services and supports that will be necessary to maintain stabilization and success in the next setting.

Section 59059.5, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 5.5, Section 59059.5(a), to specify when a transition plan must be developed for consumers residing in an Enhanced Behavioral Supports

Home and that transition plans must be reviewed monthly by the Individual Behavior Supports Team.

Rationale

The proposed regulation is necessary to specify the circumstances in which a transition plan is developed for consumers residing in an Enhanced Behavioral Supports Home as when residing in a group home and aging out; when utilizing secured perimeter in combination with delayed egress devices and restrictiveness of this setting is no longer warranted as determined by the Individual Behavior Supports Team; or if enhanced services and supports can be reduced and transition to another community setting has been agreed upon by the Individual Behavior Supports Team. Additionally, this adoption ensures that the transition plan is reviewed by the Individual Behavior Supports Team at least monthly to ensure the plan is adequate and person-centered, and appropriate transition activities occur in a timely manner.

Section 59059.5, Adopt new Subd. (a)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 5.5, Section 59059.5(a)(1), to add the details of what the transition plan must include.

Rationale

The proposed regulation is necessary to ensure the facilitation of the consumer's successful transition to another placement.

Section 59059.5, Adopt new Subd. (a)(1)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 5.5, Section 59059.5(a)(1)(A), to add the requirement that the transition plan must include measurable transition objectives and criteria, including baseline measures.

Rationale

The proposed regulation is necessary to ensure transition planning for each individual occurs and is guided by current progress and data. Documentation of measurable goals and objectives was also expressed as a priority by stakeholders.

Section 59059.5, Adopt new Subd. (a)(1)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 5.5, Section 59059.5(a)(1)(B), to add the requirement that the transition plan must include projected service and support needs.

Rationale

The proposed regulation is necessary to ensure services and supports that the team projects will be necessary in the next placement to maintain positive consumer outcomes be included in the transition plan. Current progress and data are continuously reviewed, and modifications must be made to those projected services and supports as appropriate.

Section 59059.5, Adopt new Subd. (a)(1)(C)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 5.5, Section 59059.5(a)(1)(C), to add the requirement that the transition plan must include a projected timeline for transition.

Rationale

The proposed regulation is necessary to include in the transition plan to ensure the Individual Behavior Supports Team is continually reviewing progress of goals and objectives that would set the occasion for transition to a new placement and allow adequate time for transition activities (e.g., identification of the next placement, cross-training, etc.) to occur. The timeline should outline these transition activities and be used to guide the team through the transition process.

Section 59059.5, Adopt Subd. (a)(2)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 5.5, Section 59059.5(a)(2)(A), to add a plan for cross-training needs may be included in the transition plan.

Rationale

The proposed regulation is necessary so that the coordination of logistics for the training can be planned to facilitate a successful transition into another placement.

Section 59059.5, Adopt new Subd. (a)(2)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 5.5, Section 59059.5(a)(2)(B), to add intensive transition services may be included in the transition plan.

Rationale

The proposed regulation is necessary to facilitate the consumer's successful transition into another placement, should Intensive Transition Services be required to facilitate a smooth transition.

Section 59059.5, Adopt new Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 5.5, Section 59059.5(b) to add the requirement for the licensee to 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.

Rationale

The proposed regulation is necessary to ensure that a comprehensive record of current and past information is provided to the next placement. The proposed adoption to require the current Functional Behavior Assessment and Individual Behavior Supports Plan to be provided to the next placement at the time of discharge is necessary so that the next placement has the current behavioral assessment and Individual Behavior Supports Plan that outlines information on the current target behaviors, preventative, instructional, and reactive strategies, as well as the current target behavior data that has been useful in informing the team about strategies and supports that have been effective and may continue to be effective in the new placement. This information is necessary because can assist in a successful transition.

Article 6. Individual Behavior Supports Plan

Section 59060, Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(a), to specify that the Qualified Behavior Modification Professional is responsible for coordinating the development and subsequent updating of each consumer's Individual Behavior Supports Plan.

Rationale

The proposed amendment is based on feedback provided by stakeholders, including the State Department of Social Services, consumer advocates, and regional centers, and specifies who's responsible for the requirement coordinating the development and subsequent updating of each consumer's Individual Behavior Supports Plan. The proposed amendment provides specificity and clarity to the regulations so there is no confusion.

Section 59060, Amend Subd. (d)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d), to add the requirement

“address the consumer’s individual needs” in the consumer’s Individual Behavior Supports Plan and align with the existing Community Crisis Homes regulations set forth in Section 59010(d).

Rationale

The proposed amendment is necessary to ensure that the Individual Behavior Supports Plan is developed considering person-centered practices and adequately addresses each consumer’s individual needs. The proposed amendment is also necessary for consistency and to align with the existing Community Crisis Homes regulations set forth in Section 59010(d).

Section 59060, Amend Subd. (d)(1)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d)(1), to add “needs and skill level” as a description in addition to the baseline behaviors, to the consumer’s Individual Behavior Supports Plan and align with the existing Community Crisis Homes regulations set forth in Section 59010(d)(1).

Rationale

The proposed amendment is necessary to ensure the Individual Behavior Supports Plan includes baseline data for the consumer’s needs or skill level in the assessment and identification of functionally equivalent replacement behaviors, as well as baseline data for target behaviors. This data allows the Individual Behavior Supports Team to make informed decisions about the efficacy of interventions and support strategies selected to increase skills, whether these skills are being acquired or utilized at an appropriate rate, and/or if modification is necessary, by comparing current levels of behaviors, needs, and/or skills to the baseline levels. The proposed amendment is also necessary to ensure consistency and align with the existing Community Crisis Homes regulations set forth in Section 59010(d)(1).

Section 59060, Amend Subd. (d)(2)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d)(2), to add “skills” and specify goals are “attainable” as the description which describes the consumer’s individual needs, and to align with the existing Community Crisis Homes regulations set forth in Section 59010(d)(2).

Rationale

The proposed amendment is necessary to align the regulations with the Community Crisis Homes regulations set forth in Title 17 Section 59010(d)(2), and requires a description of necessary skills to be acquired/increased that lead to

positive outcomes and the development of attainable goals the team will utilize to monitor progress and inform decision making.

Section 59060, Adopt new Subd. (d)(10)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d)(10), to require a written plan of transition as specified in Section 59059.5(a) to be included in the consumer's Individual Behavior Supports Plan.

Rationale

The proposed regulation is necessary to ensure that a written plan of transition is included in an Individual Behavior Supports Plan as required by Title 17 59059.5(a), and to ensure regular review and modification of plan components as data indicates need.

Section 59060, Amend Subd. (d)(11)

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d)(11), to add the requirement to include an Individualized Emergency Intervention Plan when there is potential for emergency interventions.

Rationale

The proposed amendment to include when emergency interventions may be necessary in an Individualized Emergency Intervention Plan to ensure there are mechanisms in place for the protection, health and safety of consumers and staff members.

Section 59060, Adopt Subd. (d)(11)(A)

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d)(11)(A), to add the requirement that within 72 hours, the licensee must provide a copy of an Individualized Emergency Intervention Plan to both the regional center's designee and the Department, as specified in Subdivision (d)(11)(A)3., when supine restraint is included in an Individualized Emergency Intervention Plan.

Rationale

The proposed adoption is necessary to ensure the regional center and Department are provided timely notification of the inclusion of a supine restraint in an Individualized Emergency Intervention Plan for a consumer and are provided copy of the developed Individual Behavior Supports Plan. 72 hours allows the administrator sufficient time to ensure the plan is updated and notify

the regional center and Department of the inclusion of the supine restraint in an Individualized Emergency Intervention Plan following its development. Supine restraint is the most restrictive physical restraint permitted and its (mis)use poses the greatest threat to the health and safety of the individual being restrained and to staff. Timely notification of its potential use allows the regional center and Department to track and monitor its use.

Section 59060, Adopt Subd. (d)(11)(A)1.

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d)(11)(A)1., to specify that when a supine restraint is included in the Individualized Emergency Intervention Plan, the plan must also include a description to systematically fade its use and inclusion.

Rationale

The proposed regulation requires the Individualized Emergency Intervention Plan to include a plan to systematically fade its use. This is necessary as supine restraint is the most restrictive physical restraint permitted and its (mis)use poses the greatest threat to the consumer and staff health and safety. While it may be necessary to utilize supine restraint when there is imminent threat to health and safety, it must be used as a last resort. A plan to systematically fade its use must be developed and identify de-escalation strategies and alternatives to supine restraint staff will be trained to implement in order to minimize the use of highly restrictive interventions.

Section 59060, Adopt Subd. (d)(11)(A)2.

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d)(11)(A)2., to add the requirement that corrections must be made to the Individual Behavior Supports Plan, including the Individualized Emergency Intervention Plan, when identified by the regional center or Department and resubmitted within 72 hours.

Rationale

The proposed regulation will ensure the facility shall make timely revisions to the Individual Behavior Supports Plan, including the Individualized Emergency Intervention Plan, when the need for revision is determined by the regional center or Department. Seventy-two (72) hours is necessary because it will allow adequate time to ensure necessary revisions are addressed and the plan is updated and resubmitted to the regional center and Department in a timely manner.

Section 59060, Adopt Subd. (d)(11)(A)3.

Purpose

The proposed regulatory action would add Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(d)(11)(A)3., to specify that a copy of the Individual Behavior Supports Plan, including the Individualized Emergency Intervention Plan, must be submitted to the Department email inbox at EBSHCCHMonitoring@dds.ca.gov when supine restraint is included in the Individualized Emergency Intervention Plan.

Rationale

The proposed regulation is necessary as it clarifies and specifies where and how to send the Individual Behavior Supports Plan, including the Individualized Emergency Intervention Plan to the Department.

Section 59060, Adopt Subd. (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6, Section 59060(e), to remove "on his or her own behalf," which is unnecessary language, and also removes ", when applicable" which aligns with the Community Crisis Homes regulations, as set forth in Section 59010(e).

Rationale

The proposed regulation is necessary as it cleans up the regulation and provides consistency the Community Crisis Homes regulations, as set forth in Section 59010(e).

Adopt new Article 6.5. Physical Restraint and Containment

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, and new Article 6.5, Restraint and Containment to clarify and specify the Department's Guidelines for the Use of Restraint or Containment in Enhanced Behavioral Supports Homes.

Rationale

The proposed adoption to add the new article for restraint and containment is necessary because it is required pursuant to W&I Code, Section 4684.81(i)(1), whereby the Department, in consultation with appropriate professionals and the protection and advocacy agency shall develop guidelines by December 2017, regarding the use of physical restraint or containment in Enhanced Behavioral Supports Homes and appropriate safeguards for the protection of clients' rights. Furthermore, this new article aligns with Title 17, CCR, Sections 59001(g), 50515(a), and 54327, Title 22, CCR, Section 80075, and H&SC, Sections 1180.1

and 1180.4 related to physical restraint and containment as well as the definition pursuant to H&SC, Section 1180.1(b) and (d).

Adopt new Section 59060.1. Prohibited Emergency Interventions

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.1, entitled Prohibited Emergency Interventions. This new section provides the reference to the regulatory sections that describe the emergency interventions that are prohibited for all community care facilities.

Rationale

The proposed regulation is necessary to clarify the prohibited emergency interventions so they can be easily understood by Enhanced Behavioral Supports Home consumers and providers and for the health and safety of our consumers and staff. Furthermore, the proposed regulation is necessary for clarity, consistency, health and safety, and nonduplication.

Adopt Section 59060.2. Time Limits on the Use of Physical Restraint.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2, entitled "Time Limits on the Use of Physical Restraint" and Subdivisions (a)-(i) to add guidelines and specify the time limits on the use of physical restraint pursuant to W&I Code, Section 4698.

Rationale

The proposed regulation is necessary because it clarifies the physical restraint and containment regulations and statutes so they can be easily understood by Community Crisis Home providers as required by W&I Code, Section 4698. The proposed regulations also provide clear guidance for the health and safety of consumers and providers.

Section 59060.2, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(a), to specify that physical restraint shall not continue longer than necessary to control the behavior for which the restraint was employed and that 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.

Rationale

The proposed regulation is necessary because limiting physical restraints of consumers emphasizes trauma-informed care practices, helps maintain consumer dignity, and reduces the risk for possible injury to self or others. Furthermore, it clarifies that physical restraint shall not continue longer than necessary to control the behavior for which the physical restraint was employed and that the use of physical restraint must be discontinued as soon as the consumer's behavior no longer poses imminent danger of serious injury to self or others, as required by W&I Code, Section 4684.81.

Section 59060.2, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(a) to specify that physical restraint shall not be used as an extended procedure, except when there is a continued need to protect the immediate health and safety of the consumer and/or others from risk of imminent serious physical harm and only with the administrator or their designee's approval.

Rationale

The proposed regulation is necessary because it is required by W&I Code Section 4684.81 and would specify the details regarding the use of physical restraint and its use as an extended procedure. The adoption of this Subsection (b) is necessary because it clarifies the physical restraint and containment regulations and statutes so they can be easily understood by Enhanced Behavioral Supports Home consumers and providers.

Section 59060.2, Adopt new Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(c), to specify the requirements for the continued use of physical restraint beyond 15 consecutive minutes.

Rationale

The proposed regulation is necessary because it is required by W&I Code, Section 4684.81, and would specify the requirements in order to continue physical restraint beyond 15 minutes. These requirements were determined after collaboration with the appropriate professionals and the protection and advocacy agency as required in W&I Code, Section 4684.81, regarding the use of restraint or containment in Enhanced Behavioral Supports Homes, and for the protection of clients' rights pursuant to W&I Code, Section 4684.81(i)(1)(B).

Section 59060.2, Adopt new Subd. (c)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(c)(1), to specify that the person who approves the continuation of physical restraint must be a person other than the person who restrained the consumer.

Rationale

The proposed regulation to require that the person who approves the continuation of physical restraint must be a person other than the person who restrained the consumer is necessary to ensure trained staff not involved in the physical restraint are constantly assessing and monitoring the restrained individual's physical and psychological status to ensure health and safety. It is also necessary to ensure the approval of continuous use of physical restraint is objective and the approving person is available to consult with others, if indicated. It is necessary to clarify the physical restraint and containment requirements so they can be easily understood by Enhanced Behavioral Supports Home consumers and providers.

Section 59060.2, Adopt new Subd. (c)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(c)(2), to specify that the person who approves the continuation of physical restraint must visually check the consumer 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 individual restraining the consumer.

Rationale

The proposed regulation is necessary to ensure the health and safety of the consumer and to align and provide consistency with H&SC, Section 1180.4 and the Department of Social Services regulations set forth in Title 22, CCR, Section 85122. These requirements were determined to be necessary after collaboration with the appropriate professionals and the protection and advocacy agency as required in W&I Code, Section 4684.81, regarding the use of restraint or containment in Enhanced Behavioral Supports Homes, and for the protection of clients' rights pursuant to W&I Code, Section 4684.81(i)(1)(B).

Section 59060.2, Adopt new Subd. (c)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(c)(3) to specify that after the initial 15 minutes, the individual 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 Title 17, Section 59060.2 (a).

Rationale

The proposed regulation is necessary to ensure the health and safety of the consumer and to justify the continued use of physical restraint is justified. This requirement is necessary because it was determined to be the best practice after collaboration with the appropriate professionals and the protection and advocacy agency as required in W&I Code, Section 4684.81, regarding the use of restraint or containment in Enhanced Behavioral Supports Homes, and for the protection of clients' rights pursuant to W&I Code, Section 4684.81(i)(1)(B).

Section 59060.2, Adopt Subd. (c)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(c)(4), to specify that within 24 hours the administrator must provide documentation in the consumer's file.

Rationale

The proposed regulation to document in the consumer's file within 24 hours is necessary to ensure there is an accurate recording of the facts following the use of physical restraint and allows for adequate time to document the incident while the details of the event are still fresh and is consistent and aligns with the Department of Social Services regulations set forth in Title 22, CCR, Section 85122(e)(6)(A)1. Documentation is vital to provide a safe environment and helps provide historical information necessary for both planning and accountability.

Section 59060.2, Adopt Subd. (c)(4)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(c)(4)(A), to specify that within 24 hours the administrator or their designee, must document in the consumer's file the approval for the continued use of physical restraint beyond 15 consecutive minutes.

Rationale

The proposed regulation to document in the consumer's file within 24 hours is necessary to ensure timely documentation of the approved continued use of physical restraint is available for review by the Individual Behavioral Supports Team in order to ensure the health and safety of the consumer. The proposed regulations are also necessary to align and provide consistency with H&SC, Section 1180.4 and the Department of Social Services regulations set forth in Title 22, CCR, Section 85122. The time limit of 15 consecutive minutes is necessary

because it aligns with the Department of Social Services regulations in Title 22, CCR, Section 85122(e)(6)(A)1., which has proven to be successful.

Section 59060.2, Adopt Subd. (c)(4)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(c)(4)(B), to specify that within 24 hours the administrator or their designee, must document in the consumer's file the explanation for why it was necessary for the physical restraint to extend beyond 15 consecutive minutes which also aligns with the regulations in Title 22, CCR, Section 85122(e)(6)(A)1.

Rationale

The proposed regulation to document in the consumer's file within 24 hours is necessary to ensure timely documentation of the reasons for the continued physical restraint is available for review by the Individual Behavioral Supports Team in order to provide the health and safety of the consumer. The regulations are also necessary for consistency with Title 22, CCR, Section 85122 and H&SC, Section 1180.4. The time limit of 15 consecutive minutes is necessary and consistent with the Department of Social Services regulations in Title 22, CCR, Section 85122(e)(6)(A)1., which has proven to be successful.

Section 59060.2, Adopt Subd. (c)(4)(C)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(c)(4)(C), to specify that within 24 hours the administrator or their designee, must document in the consumer's file a description of consumer's behavior that posed an imminent danger of serious injury to self or others.

Rationale

The proposed regulation to document in the consumer's file within 24 hours is necessary to ensure timely documentation of the consumer's behavior that warranted the consumer was in imminent danger of serious injury to self or others is available for review by the Individual Behavioral Supports Team in order to ensure the health and safety of the consumer. The regulations are also necessary and consistent with the requirements set forth in Title 22, CCR, Section 85122(e)(6)(A)1., which has proven to be successful.

Section 59060.2, Adopt Subd. (d)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(d), to specify that staff must make

provisions for responding promptly and appropriately to a consumer's request for services and assistance with repositioning the consumer when appropriate.

Rationale

The proposed regulation is necessary to decrease risk for injury or harm due to the use of physical restraint by requiring staff to respond to consumers request for services. This provision is also necessary because it has been determined to be a best practice after collaboration with the appropriate professionals and the protection and advocacy agency as described in W&I Code, Section 4900(i). Furthermore, the proposed regulation is consistent and aligns with the Department of Social Services regulations set forth in Title 22, CCR, Section 85122(e)(4), which has proven to be successful.

Section 59060.2, Adopt Subd. (e)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(e), to specify that if a physical restraint lasts longer than 30 consecutive minutes, the consumer in a physical restraint must be visually checked 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 Title 17, Section 59060.2(a).

Rationale

The proposed regulation is necessary to ensure the health and safety of the consumer and to align and remain consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322.

Section 59060.2, Adopt Subd. (e)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(e)(1), to specify that at the time of the visual check, the visual checks must be documented in the consumer's file.

Rationale

The proposed regulation is necessary to verify that the visual observation and assessment occurs every 15 minutes to ensure the protection, safety and health of the consumer. It is also necessary to document immediately at the time of the visual check to ensure there is an accurate recording of the facts. Documentation is vital to provide safe environment and helps provide historical information necessary for both planning and accountability. The time factor to visually observe every 15 minutes is consistent with the Department of Social

Services regulations, Title 22, CCR, Section 84322(f)(2)(A), which have proven to be successful.

Section 59060.2, Adopt Subd. (e)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(e)(2), to specify that the person conducting the check must not be the individual who restrained the consumer.

Rationale

The proposed regulation is necessary to ensure that the person conducting the visual check can objectively and adequately assess and address the consumer's needs and to reduce the risk for injury or harm due to the use of physical restraint by responding to the consumers requests for assistance or repositioning. The proposed regulations are also necessary in order to comply with Subsection (e)(1), the person doing the restraint would not be able to visually check or document at the time of the visual check. The proposed regulation also aligns and is consistent with the Department of Social Services regulations, Title 22, CCR, Section 84322(f)(2)(C)2., which have proven to be successful.

Section 59060.2, Adopt Subd. (f)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(f), to describe the requirements if a physical restraint lasts longer than 60 minutes.

Rationale

The proposed regulation is necessary to adequately assess the consumer's health and safety and to ensure the protection, safety and health of the consumer. The time factor to relating to 60 minutes is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322, and have proven to be successful. The proposed regulation is also necessary to ensure the protection, safety, health and well-being of the consumer.

Section 59060.2, Adopt Subd. (f)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(f)(1), to specify if a physical restraint lasts longer than 60 minutes, the administrator must evaluate whether the facility has adequate resources to meet the consumer's needs and reevaluate at 30-minute intervals thereafter pursuant to Title 22, CCR, Section 84322.

Rationale

The proposed regulation is necessary to ensure that the administrator is continually assessing the need for continued physical restraint and the facility's ability to continue to meet the consumer's needs or if assistance from an outside agency may be warranted. The time factors to relating to 60 minutes and re-evaluation at 30-minute intervals is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322, and have proven to be successful. The proposed regulation is also necessary to ensure the protection, safety and health of the consumer.

Section 59060.2, Adopt new Subd. (f)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(f)(2), to specify that physical restraint used in excess of 60 consecutive minutes, must be approved in writing every 30 minutes, by the administrator or their designee.

Rationale

The proposed regulation requiring the administrator to provide ongoing approval ensures there is an objective individual monitoring the restraint, agreeing the restraint continues to be necessary for safety/wellbeing and provides additional monitoring of the restraint of the staff and acts as ongoing support throughout the prolonged restraint. The time factor to relating to physical restraint used in excess of 60 minutes, and must be approved in writing every 30 minutes, by the administrator or their designee is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322, and have proven to be successful. The proposed regulation is also necessary to ensure the protection, safety, health and wellbeing of the consumer.

Section 59060.2, Adopt new Subd. (f)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(f)(3), to specify that the consumer's authorized representative must be notified, and if the consumer is a child, the child's authorized representative must approve when physical restraints are used in excess of 60 consecutive minutes.

Rationale

The proposed adoption is necessary to ensure the consumer's authorized representative is aware of the extended duration physical restraint and remain consistent with Title 22, Section 84322(f)(2).

Section 59060.2, Adopt new Subd. (f)(3)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(f)(3)(A), to specify a caveat that if the administrator or their designee is not able to obtain approval from the child's authorized consumer representative to continue the extended use of restraint, staff shall maintain the physical restraint when there is imminent risk of serious physical injury and immediately call local law enforcement the consumer's authorized representative must be notified, and if the consumer is a child, the child's authorized representative must approve when physical restraints are used in excess of 60 consecutive minutes.

Rationale

The proposed adoption is necessary to ensure the consumer's authorized representative is aware of the extended duration of the physical restraint and remain consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322(f)(2).

Section 59060.2, Adopt new Subd. (g)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(g), to specify that if a physical restraint exceeds two (2) hours, the consumer must be allowed to access liquids, meals, toileting, and range of motion exercises at regular intervals not exceeding two (2) hours.

Rationale

The proposed regulation is necessary to ensure the consumer is able to remain comfortable in physical restraint, decrease risk of injury from the physical restraint. The time factor to relating to if a physical restraint exceeds of two (2) hours, aligns and is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322(f)(2)(H).

Section 59060.2, Adopt new Subd. (h)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(h) to specify that physical restraint must not exceed four (4) cumulative hours in a 24-hour period.

Rationale

The proposed regulation is necessary to reduce risk of injury from physical restraint, avoid excessive use of physical restraint, and is applicable to adults and children. The time factor that specifies that the physical restraint must not exceed four (4) cumulative hours in a 24-hour period aligns and is consistent with

the Department of Social Services regulations set forth in Title 22, CCR, Section 84322(f)(2)(G).

Section 59060.2, Adopt Subd. (h)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(h)(1) to specify that 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.

Rationale

The proposed regulation is necessary so that the consumer's authorized representative is made aware of the duration of physical restraint and to ensure the appropriate professionals assess individuals who may require a higher level of care when physical restraint is required for an extended duration. The proposed regulation is also necessary because it aligns and is consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 84322(f)(2)(G)1.

Section 59060.2, Adopt new Subd. (i)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.2(i), to specify that within 48 hours of a physical restraint of 60 cumulative minutes or longer that occurred in a 24-hour period, the consumer's needs and services plan must be reviewed by the Individual Behavior Supports Team and modified as needed.

Rationale

The proposed regulation is necessary to ensure the Individual Behavior Supports Team evaluates the use of physical restraint lasting longer than 60 minutes and revises the needs and services plan as needed to include interventions and strategies likely to reduce the need for physical restraint. The proposed regulation is also necessary to ensure the protection, safety, health and well-being of the consumer.

Section 59060.3 Assessment of Potential Physical Injury After Each Use of Physical Restraint.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3, entitled Assessment of Potential Physical Injury After Each Use of Physical Restraint and Subsections (a)-(f) to specify the details and requirements for assessment of potential physical injury after each use of physical restraint.

Rationale

The proposed adoption is necessary to specify and clarify the specific details and requirements for assessing an individual after the use of physical restraint, so that Enhanced Behavioral Supports Home providers understand what is required for the health and safety of the consumers.

Section 59060.3, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(a) to specify what is required within 30 minutes after termination of each use of physical restraint

Rationale

The proposed regulation requiring the time-factor of 30 minutes after termination of each use of physical restraint is necessary to specify and clarify the need for timely assessment of the consumer's physical and psychological needs and well-being following the use of physical restraint.

Section 59060.3, Adopt Subd. (a)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(a)(1), to specify and require within 30 minutes after termination of each use of physical restraint, the administrator or their designee shall assess in-person the consumer's immediate needs and physical well-being for potential physical injury after each use of physical restraint.

Rationale

The proposed regulation is necessary to specify and clarify the specific details for assessing an individual after the use of physical restraint, so that Enhanced Behavioral Supports Home providers understand what is required for the consumer's health, safety and well-being. The time-factor requiring an in-person assessment of the consumer be conducted by the administrator or their designee within 30 minutes after the termination of each use of physical restraint is necessary to ensure the consumer's immediate needs and physical well-being is addressed in a timely manner.

Section 59060.3, Adopt Subd. (a)(1)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(a)(1)(A), to require within 30 minutes after termination of each use of physical restraint, a qualified medical professional to assess the consumer in order to serve the consumer's needs and ensuring safety and treatment for injury as soon as possible, if necessary.

Rationale

The regulation is necessary to specify that an assessment by a qualified medical professional is required if there is physical injury or suspected physical injury. This requirement is necessary to ensure an assessment for the need of adequate and timely medical care is provided in the event there is injury or suspected injury following the use of physical restraint. The time-factor requiring an assessment by a qualified medical professional within 30 minutes after the termination of each use of physical restraint is necessary to ensure the consumer's medical needs and physical well-being are addressed in a timely manner.

Section 59060.3, Adopt Subd. (a)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(a)(2), to require within 30 minutes after termination of each use of physical restraint, that the administrator or their designee conduct an in-person assessment of the consumer's psychological well-being and need for emotional support.

Rationale

The proposed regulation is necessary to ensure the consumer receives timely care and support needed following the use of physical restraint. The time-factor requiring the administrator, or their designee conduct an in-person assessment of the consumer's psychological well-being and need for emotional support within 30 minutes after the termination of each use of physical restraint is necessary to ensure the consumer's psychological needs and are addressed in a timely manner.

Section 59060.3, Subd. (a)(2)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(a)(2)(A), to require within 30 minutes after termination of each use of physical restraint, for ensuring coordination of treatment for suspected psychological trauma.

Rationale

The proposed regulation that includes the time-factor of within 30 minutes after termination of each use of physical restraint, is necessary to ensure a timely and adequate assessment of the consumers mental and emotional needs from a trauma-informed perspective and ensures the consumer receives treatment for trauma, if necessary.

Section 59060.3, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(b), to specify the requirements within four (4) hours after each use of physical restraint.

Rationale

This proposed regulatory action is necessary to ensure timely documentation and staff assessment requirements following the use of physical restraint.

Section 59060.3, Adopt Subd. (b)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(b)(1), to specify that if medical attention is sought, it must be documented in the consumer's file, and reported to the Department within four (4) hours after each use of physical restraint.

Rationale

The proposed regulation includes the time-factor of within 4 hours after each use of physical restraint and is necessary to ensure accurate and timely documentation of the facts related to the medical attention sought and staff assessment following the use of physical restraint. The documentation and reporting requirements are necessary to allow for ongoing evaluation and careful consideration of the outcomes from the use of restraint. This information is invaluable and can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary. The reporting to the Department is also necessary for tracking and monitoring purposes and to ensure all requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59060.3, Adopt Subd. (b)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(b)(2), to specify that the administrator or their 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.

Rationale

The proposed regulation that includes the time-factor requiring within four (4) hours after each use of physical restraint, is necessary to ensure timely and adequate assessment of the physical and psychological well-being of staff

involved in physical restraint, as well as those who witnessed the restraint, and identified needs are addressed using trauma-informed care.

Section 59060.3, Adopt new Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(c), to specify 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 administrator or their designee within two (2) hours.

Rationale

The proposed regulation is necessary to ensure timely and adequate assessment and notification of injury or suspected injury are made to the administrator and documented to remain consistent with the Department of Social Services regulations set forth in Title 22, CCR, Section 80061. Two (2) hours provides staff adequate time to assess for potential injury, coordinate immediate care if needed, and provide notification to the administrator. It also allows for adequate time to complete the required written incident report while the details of the event are still fresh.

Section 59060.3, Adopt Subd. (d)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(d), to specify a written incident report must be submitted to the Department of Social Services and the regional center as specified by Title 22, CCR, Section 80061.

Rationale

The proposed regulation necessary to ensure written incident reports are submitted to the Department of Social Services, as required by Title 22, CCR, Section 80061.

Section 59060.3, Adopt Subd. (e)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(e), to specify suspected serious bodily injury, as defined in W&I Code, Section 15610.67, shall be reported within (two) 2 hours to a qualified medical professional for examination.

Rationale

The proposed regulation is necessary to ensure consumers receive timely and adequate medical attention and assessment for their protection, health, safety, and well-being.

Section 59060.3, Adopt Subd. (f)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.3(f), to require the regional center to submit a copy of the incident report to the Department at the specified email address within two (2) working days following receipt of the report as specified in Section 54327.1(a).

Rationale

The proposed regulation is necessary to ensure incidences are documented and reported to the Department of Social Services and the Department of Developmental Services in a timely manner. The requirement to be reported within two (2) working days following the receipt of the report as specified in Section 54327.1(a), is necessary for the department to be made aware in order to be able to determine if additional supports or services are needed for the consumer and to ensure the protection, health, safety, and well-being of all participants. The proposed regulation is also necessary because it indicates where, when and how the to submit the report.

Section 59060.4. Debriefing After the Use of Physical Restraint.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4, entitled Debriefing After the Use of Physical Restraint and Subsections (a)-(g) to specify the debriefing requirements after the use of physical restraint

Rationale

The proposed adoption is necessary to ensure there is adequate assessment of the events leading to the use of physical restraint and alternative methods that can be used to prevent the use of physical restraint in the future.

Section 59060.4, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(a), to specify that 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.

Rationale

The proposed regulation specifies a 24-hour timeframe which is necessary to ensure the timely review and discussion of the facts related to the event as closely to the event as possible. It is necessary and a best practice for a debriefing to occur within 24-hours in order to understand what happened and to try and prevent future incidences for the health, safety, protection and well-

being of consumers. The debriefing is necessary for the possible future development, implementation, and modification of the Individual Behavior Supports Plan.

Section 59060.4, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(b), to specify the attendees required to attend the debriefing meeting.

Rationale

The proposed adoption to list the minimum required attendees to participate in debriefing activities provides clarity to Enhanced Behavioral Supports Home providers about who must be afforded the opportunity to provide input to the team following the use of restraint.

Section 59060.4, Adopt Subd. (b)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(b)(1), to specify the consumer who was physically restrained must attend the debriefing, unless the consumer voluntarily declines.

Rationale

The proposed regulation is necessary to have the consumer as an attendee because the consumer was directly involved in the incident and will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59060.4, Adopt Subd. (b)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(b)(2), to specify the authorized consumer representative must attend the debriefing, if applicable.

Rationale

The proposed adoption is necessary to have the authorized consumer representative as an attendee if applicable because the authorized consumer representative will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59060.4, Adopt Subd. (b)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(b)(3), to specify the staff involved in the incident must attend the debriefing.

Rationale

The proposed adoption to have the staff involved in the incident as attendees is necessary because they were directly involved in the incident and will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59060.4, Adopt Subd. (b)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(b)(4), to specify the Administrator or Administrator's designee must attend the debriefing.

Rationale

The proposed regulation is necessary because the administrator or their designee will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59060.4, Adopt Subd. (b)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(b)(5), to specify that the facility's Qualified Behavior Modification Professional must attend the debriefing.

Rationale

The proposed regulation is necessary because the facility's Qualified Behavior Modification Professional will need to be involved for the future development, implementation, and modification of the Individual Behavior Supports Plan that is likely to occur as a result of debriefing activities.

Section 59060.4, Adopt Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(c), to specify that the debriefing may also include individuals requested by the consumer.

Rationale

The proposed regulation is necessary so that the consumer may request the presence of other individuals who may provide additional support or comfort to them during debriefing activities, but the debriefing meeting should occur as required, even if these individuals are not able to attend.

Section 59060.4, Adopt Subd. (d)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(d), to specify that the clients' rights advocate and a regional center representative may also be included in debriefing activities with consumer approval, although they are not required to attend the debriefing. The debriefing meeting should occur as required, even if these individuals are not able to attend.

Rationale

The proposed regulation is necessary to ensure that the clients' rights advocate and regional center representative are invited to participate in the debriefing meeting, with approval of the consumer, but the debriefing meeting should occur as required, even if these individuals are not able to attend.

Section 59060.4, Adopt Subd. (e)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e), to specify the activities that must occur as a part of the debriefing.

Rationale

The proposed regulation is necessary to provide clarity about the activities that must occur as a part of the debriefing, including identification of the events that led to the use of restraint, alternative methods of responding to the incident, and identifying the need to provide additional staff training, or complete or update assessments and/or plans.

Section 59060.4, Adopt Subd. (e)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(1), to specify that the debriefing must include assisting the consumer with identifying the precipitant of the incident and suggest methods of more safely and constructively responding to the incident.

Rationale

The proposed regulation is necessary to help the consumer identify triggers or setting events that may have been a precipitant to the incident and review

other ways they might respond in the future in similar circumstances that might deescalate the situation and reduce the likelihood of future physical restraint.

Section 59060.4, Adopt Subd. (e)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(2), to specify that the debriefing must include 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.

Rationale

The proposed regulation is necessary to help the staff involved in the incident identify triggers or setting events that may have been a precipitant to the incident, including ways in which they could assist the consumer with engaging in alternative behaviors that will reduce further escalation and the likelihood of future use of physical restraint.

Section 59060.4, Adopt Subd. (e)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(3), to specify that the debriefing must include identifying what led to the incident and what factors contributed to the incident leading to the use of physical restraint.

Rationale

The proposed regulation is necessary to review precipitating factors leading to the use of physical restraint, which might include poor treatment integrity and/or the need to make modification to the Individual Behavior Supports Plan, which might prevent the use of physical restraint in the future.

Section 59060.4, Adopt Subd. (e)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(4), to specify the debriefing must include assessing alternative methods of responding to the incident that may have avoided the use of physical restraint.

Rationale

The proposed regulation is necessary to identify possible alternative methods of responding to the incident that may avoid use of physical restraint, that could be included in the review of Individual Behavior Supports Plan and Individualized Emergency Intervention Plan.

Section 59060.4, Adopt Subd. (e)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(5), to specify that the debriefing must include evaluating whether staff used emergency interventions consistent with the facility Emergency Intervention Plan, the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan, and staff training.

Rationale

The proposed regulation is necessary to ensure an evaluation of treatment integrity which helps the team identify if there was a breakdown in implementation and/or if modifications to the Emergency Intervention Plan and/or Individual Behavior Supports Plan or additional staff training are necessary.

Section 59060.4, Adopt Subd. (e)(6)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(6), to specify that the debriefing must include devising treatment interventions to address the root cause of the incident, its consequences, and modify the Individual Behavior Supports Plan and/or the Individualized Emergency Intervention Plan accordingly.

Rationale

The proposed regulation is necessary to address the root cause incident and its consequences to better understand the cause of the incident and use this information to lead to modifications in the Individual Behavior Supports Plan or Individualized Emergency Intervention Plan.

Section 59060.4, Adopt Subd. (e)(7)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(7), to specify that the debriefing must include evaluating whether the consumer was in a physical restraint for the least amount of time necessary.

Rationale

The proposed regulation is necessary to address the duration of physical restraint and ways to reduce time in physical restraint and to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59060.4, Adopt Subd. (e)(8)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(8), to specify that the debriefing must include 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.

Rationale

The proposed regulation is necessary to ensure staff attempted to utilize de-escalation techniques and fidelity of implementation is evaluated, which may lead to modification of the Individual Behavior Supports Plan and/or Individual Emergency Intervention Plan. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection, and well-being of consumers.

Section 59060.4, Adopt Subd. (e)(9)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(9), to specify that the debriefing must include determining whether their physical and psychological well-being and right to privacy were addressed appropriately.

Rationale

The proposed regulation is necessary to ensure evaluation of staff meeting the physical and psychological needs of the consumer during the incident and potential need for additional training and/or modification of the Individual Behavior Supports Plan. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59060.4, Adopt Subd. (e)(10)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(10), to specify that the debriefing must include considering treatment for any trauma that may have been experienced by the consumer as a result of the incident. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Rationale

The proposed regulation is necessary to utilize trauma-informed care in the debriefing and identify any trauma-informed treatments or plans needed, if indicated. The proposed regulation is also necessary to ensure the requirements

have been followed for the health, safety, protection and well-being of consumers.

Section 59060.4, Adopt Subd. (e)(11)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(11), to specify that the debriefing must include identifying alternative ways of helping the consumer avoid or cope with difficult situations such as those that led to the use of physical restraint.

Rationale

The proposed regulation is necessary to ensure adequate identification and evaluation of functionally equivalent replacement behaviors detailed in the Individual Behavior Supports Plan and inform modifications needed. The proposed regulation is also necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59060.4, Adopt Subd. (e)(12)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(e)(12), to specify that the debriefing must include 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 medical variables.

Rationale

The proposed regulation requires the team to determine if additional or updated assessments or plan revisions are necessary and/or if there is a need to provide additional staff training following debriefing activities. The team is required to ensure these activities are completed to ensure the health, safety, protection and well-being of consumers.

Section 59010.4, Adopt Subd. (f)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(f), to specify the documentation requirements for the debriefing meeting.

Rationale

The proposed regulatory action is necessary to include required elements in the documentation of the debriefing.

Section 59010.4, Subd. (f)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(f)(1), to specify that the debriefing must document the findings of the activities in Subdivisions (e)(1)-(12).

Rationale

The proposed regulatory action is necessary to ensure required components of the debriefing noted in Subsection 59010.4(e)(1)-(12), are documented. Documentation and thorough consumer files are vital to provide safe environment and helps provide historical information necessary for both planning and accountability. This documentation allows for ongoing evaluation and careful consideration of the factors contributing to the use of restraint and data trends. This information is invaluable and can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59060.4, Adopt Subd. (f)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(f)(2), to specify that the debriefing must document any revisions needed to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan to better serve the consumer.

Rationale

The proposed regulation is necessary to ensure the debriefing team identify specific revisions that might be necessary in the Individual Behavior Supports Plan and/or the Individualized Emergency Intervention Plan. Identified revisions will be used to better serve the consumer, such as steps that could be utilized to avoid future use of physical restraint and to ensure the health, safety, protection and well-being of consumers.

Section 59060.4, Adopt Subd. (f)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(f)(3), to specify that the debriefing must document if the consumer refuses to participate in the debriefing activities.

Rationale

The proposed regulation is necessary to document the consumer's choice to decline to attend the debriefing to verify that the choice to attend was offered. Documentation and thorough consumer files are vital to provide safe

environment and helps provide historical information necessary for future planning and discussions.

Section 59060.4, Adopt Subd. (f)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(f)(4), to specify that the debriefing must document the physical and psychological well-being of anyone who observed the physical restraint.

Rationale

The proposed regulation is necessary to identify and address the physical and psychological impact on any individual who observed the physical restraint. Documentation and thorough facility files are vital to provide safe environment and helps provide historical information necessary for future planning and discussions. The proposed regulations are necessary to ensure the health, safety, protection, and well-being of consumers.

Section 59060.4, Adopt Subd. (f)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(f)(5), to specify that the debriefing must document evidence that less restrictive, nonphysical strategies were attempted first and without success.

Rationale

The proposed regulation is necessary to document that less restrictive measures were attempted and to identify steps in the Individual Behavior Support Plan that were ineffective and may require modifications to the Individual Behavior Support Plan. Documentation and thorough facility files are vital to provide safe environment and helps provide historical information necessary for future planning and discussions. The proposed regulations are necessary to ensure the health, safety, protection, and well-being of consumers.

Section 59060.4, Adopt Subd. (g)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.4(g), to specify that in addition to a review of each incident of physical restraint, 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.

Rationale

The proposed regulation is necessary to ensure multiple uses of physical restraint and any dangerous behavior, such as harm to self and others, is reviewed by the Individual Behavior Supports Team to develop plans to avoid multiple use of physical restraint and dangerous behaviors. The requirement for physical restraint used on more than three occasions within a three-month period and or the recurrence of consumer's dangerous behavior is necessary because it has been determined to be the best practice to ensure the safety, protection and well-being of consumers. The proposed regulation is necessary in order to provide support or transition needs and alternatives to physical restraint. The time requirement to update the Individual Behavior Supports Plan within five business days is necessary because it provides enough time for staff to evaluate and consider remedies and make adjustments in a timely manner.

Adopt Section 59060.5. Restraint and Data Reporting.

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5, entitled Restraint Data Reporting to specify the requirements for reporting data for each instance of the use of physical restraint and on a monthly basis to the Department of Developmental Services when behavioral restraint is used to control behavior.

Rationale

The proposed regulation provides information that is necessary to establish a system of consistent and timely data collection and reporting regarding the use of restraint.

Section 59060.5, Adopt Subd. (a)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a), entitled Emergency Intervention Documentation and Reporting Requirements.

Rationale

The proposed regulation details information necessary to include in restraint use documentation and reporting in order to provide accurate documentation for improvement of supports and services that may be necessary to ensure the continued safety of the consumer.

Section 59060.5, Adopt Subd. (a)(1)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(1), to require that the use of

physical restraint be reported to the consumer's authorized representative, if any, by telephone no later than the next calendar day.

Rationale

The proposed regulation is necessary to ensure the use of restraint is communicated to the consumer's authorized representative, if any, so that the consumer's authorized representative is made aware in a timely manner.

Section 59060.5, Adopt Subd. (a)(1)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(1)(A), to require that the use of physical restraint be reported to the consumer's authorized representative, if any, by telephone, no later than the next calendar day and include the type of emergency intervention used and the duration of the physical restraint.

Rationale

The proposed regulation is necessary to ensure the use of restraint is communicated to the consumer's authorized representative, if any, so that the consumer's authorized representative is made aware of the details of the type of emergency intervention used and the duration of the physical restraint.

Section 59060.5, Adopt Subd. (a)(1)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(1)(B), to require the date and time the use of physical restraint was reported to the authorized consumer representative, and the date, time, and response of the authorized consumer representative, shall be documented in the consumer's file.

Rationale

The proposed regulation is necessary to ensure the use of restraint is communicated to the consumer's authorized representative, if any, and ensures documentation of this communication with the authorized representative is recorded, including their response. The proposed regulation is necessary to ensure the requirements have been followed for the health, safety, protection and well-being of consumers.

Section 59060.5, Adopt Subd. (a)(2)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(2), to require when, where and how the use of a physical restraint shall be reported to the Department of Social Services and the Department of Developmental services.

Rationale

The proposed regulation is necessary to ensure the use of restraint is documented and reported to the Department of Social Service and the Department of Developmental Services in a timely manner. The requirement to be reported no later than the next business day is necessary for the department's reporting purposes and to be made aware in order to determine if additional supports or services are needed for the consumer for their protection, safety, health and well-being. The proposed regulation is also necessary because it indicates how, when and when the report is to be submitted to both departments.

Section 59060.5, Adopt Subd. (a)(2)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(2)(A), to require that the incident report of the use of physical restraint be reviewed for accuracy and completeness and signed by the licensee or their designee prior to submission to oversight agencies.

Rationale

The proposed regulation is necessary to ensure the licensee verifies the information included in the report is accurate and the report is complete prior to submission to the departments.

Section 59060.5, Adopt Subd. (a)(2)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(2)(B), to require that the licensee ensure physical restraint holds are consistent with the approved facility Emergency Intervention Plan, and if not, develops a corrective action plan to address the deficiencies.

Rationale

The proposed regulation is necessary to ensure the facility staff accurately implement physical restraints approved in the facility Emergency Intervention Plan which will maintain the health and safety of consumers in crisis. If staff use a non-approved physical restraint, the licensee must develop a corrective action which must require staff to repeat or obtain emergency intervention training. This plan must be submitted to oversight agencies.

Section 59060.5, Adopt Subd. (a)(3)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3), to provide details of the

information that must be included in the report of physical restraint submitted to oversight agencies in Subsection (a)(2).

Rationale

The proposed regulation is necessary to provide clarity on the details which must be included in the report of physical restraint.

Section 59060.5, Adopt Subd. (a)(3)(A)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(A), to include in the report required in Subdivision (a)(2), a description of the events that led to the use of physical restraint including the consumers behavior and other factors.

Rationale

The proposed regulation is necessary to ensure evaluation and careful consideration of the events and other behaviors that led to the use of physical restraint are documented. This information can inform subsequent selection of alterative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59060.5, Adopt Subd. (a)(3)(B)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(B), to include in the report required in Subdivision (a)(2), a description of the physical restraint used and the duration of restraint.

Rationale

The proposed regulation is necessary to ensure the type and duration of physical restraint are documented. This information can inform subsequent selection of alterative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59060.5, Adopt Subd. (a)(3)(C)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(C), to include in the report required in Subdivision (a)(2), a description of non-physical interventions that were attempted prior to physical restraint and an explanation of why more restrictive interventions were necessary.

Rationale

The proposed regulation is necessary to ensure evaluation and careful consideration of non-physical interventions that were attempted and why more restrictive interventions were necessary are documented. This information can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59060.5, Adopt Subd. (a)(3)(D)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(D), to include in the report required in Subdivision (a)(2), a description of the consumer's verbal response, physical appearance, and any injuries sustained by the consumer and, if known, facility personnel, at the termination of the physical restraint, whether the injuries are related to the physical restraint, and how the licensee became aware of the injury.

Rationale

The proposed regulation is necessary to ensure evaluation and careful consideration of the consumers appearance and what they report at the time of restraint. This includes an assessment for injury and documentation of the injury related to the restraint and how the licensee became aware of the injury. This information is necessary to be reported because it will ensure timely treatment for any injuries. The proposed regulation is also necessary because it can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59060.5, Adopt Subd. (a)(3)(E)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(E), to include in the report required in Subdivision (a)(2), a description of injuries sustained by the consumer and/or staff, what type of medical treatment was sought and where, or an explanation of why medical treatment was not sought for injuries.

Rationale

The proposed regulation is necessary to ensure staff injuries sustained during physical restraint, the type of medical treatment sought, or an explanation of why no medical treatment was sought for the staff are reported so that the oversight agencies are made aware for and have the information for subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention

Plan. The proposed regulation is necessary to ensure the future protection, health and safety of consumers and staff.

Section 59060.5, Adopt Subd. (a)(3)(F)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(F), to include in the report required in Subdivision (a)(2), the names of all facility personnel who participated or witnessed the physical restraint.

Rationale

The proposed regulation is necessary to ensure adequate documentation of the names of facility staff who witnessed or participated in physical restraint. This documentation allows the facility to maintain record of staff involvement in physical restraint and individuals to include in debriefing activities or investigations.

Section 59060.5, Adopt Subd. (a)(3)(G)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(G), to include in the report required in Subdivision (a)(2), the name of the administrator or their designee, who approved the continuation of physical restraint for more than 15 consecutive minutes.

Rationale

The proposed regulation is necessary to ensure there is documentation of the name of the administrator who approved restraint for longer than 15 minutes, in order to maintain a complete and accurate record of who was involved in the physical restraint and for inclusion in debriefing activities or investigations.

Section 59060.5, Adopt Subd. (a)(3)(H)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(H), to include in the report required in Subdivision (a)(2), if determined in the debriefing, as required in Title 17, California Code of Regulations, Section 59060.4, that facility personnel did not adequately attempt to prevent physical restraint, documentation of a description of what action(s) should have been taken by facility personnel to prevent physical restraint. This documentation shall also include what corrective action will be taken, or not taken, and why.

Rationale

The proposed regulation is necessary to ensure thoughtful evaluation and documentation of a corrective action plan which includes alternative approaches staff should implement to prevent the use of physical restraint if facility personnel do not adequately attempt to prevent the use of physical restraint.

Section 59060.5, Adopt Subd. (a)(3)(I)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(I), to include in the report, required in Subdivision (a)(2), if law enforcement was involved, a description of precipitating factors, including behaviors of others, which required police intervention.

Rationale

The proposed adoption is necessary to ensure documentation of events and behaviors that led to police involvement in the physical restraint incident.

Section 59060.5, Adopt Subd. (a)(3)(J)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(3)(J), to include in the report, required in Subdivision (a)(2), the date and time of other physical restraint involving the same consumer in the past 24-hours.

Rationale

The proposed adoption is necessary to ensure documentation to oversight agencies include comprehensive restraint data for the consumer for the past 24-hours including the date and time.

Section 59060.5, Adopt Subd. (a)(4)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(4), to require documentation and reporting if it was necessary for the continued use of physical restraint beyond 15 consecutive minutes, in accordance with Section 59060.2.

Rationale

The proposed regulation is necessary to ensure clarity and consistency in reporting and documenting the continued use of restraint beyond 15 minutes. The proposed regulation is necessary for the protection, health, and safety of consumers.

Section 59060.5, Adopt Subd. (a)(5)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(5) to require a copy of the report of physical restraint be available for review by oversight agencies and available upon request.

Rationale

The proposed regulation is necessary to provide transparency of the physical restraint reports and consistency and clarity in the maintenance of records. The proposed regulation is necessary for the protection, health, and safety of consumers.

Section 59060.5, Adopt Subd. (a)(6)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(6), to require that the information required to be included in the report described in Subdivision (a)(2) – (3) be documented no later than the end of the working shift(s) for each staff member who participated in the physical restraint.

Rationale

The proposed adoption is necessary to ensure the use of restraint is documented by involved staff in a timely manner, for accuracy while the incident is fresh in their memory and before they leave the facility at the end of their shift.

Section 59060.5, Adopt Subd. (a)(7)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(7), to require that the licensee maintain a monthly log of information related to each use of physical restraint which is subsequently described.

Rationale

The proposed regulation is necessary to provide clarity and specify the information required to be included in the monthly log documenting each use of physical restraint.

Section 59060.5, Adopt Subd. (a)(7)(A) – (L)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(7)(A)-(L), including (G)1.-3, to require identifying and relevant information for each use of physical restraint to be documented in the monthly log, including the name of each consumer for which a physical restraint was used; the date, time, and duration of the physical

restraint, the behaviors of others connected to the incident and contributing factors that led to the incident, the names and job titles of staff that participated in the physical restraint, the name of the administrator or their designee that approved the continuation of the physical restraint for more than 15 minutes, if applicable, a description of the physical restraint and type used, including: the outcome to the consumer, including injury or death; the outcome to the staff, including injury or death; and if an injury to the consumer or staff was serious, as defined in Health and Safety Code Section 1180.1(g). Also included is the total number of incidents with physical restraints per month, the total number of serious injuries per month, non-serious injuries per month and staff injuries per month.

Rationale

The proposed regulation is necessary to ensure there is accurate and specific documentation for each use of physical restraint. The required documentation allows for ongoing evaluation and careful consideration of the factors contributing to the use of restraint and data trends. This information is invaluable and can inform subsequent selection of alternative support strategies or modification to the Individual Behavior Supports Plan and Individualized Emergency Intervention Plan that may be necessary.

Section 59060.5, Adopt new Subd. (a)(8)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(a)(8) to require that the monthly physical restraint log be maintained at the facility and readily available for review by oversight agencies.

Rationale

The proposed adoption is necessary to ensure clarity and consistency with regulatory requirements related to records maintenance.

Section 59060.5, Adopt Subd. (b)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(b), to require that the monthly log described in Subsection (a)(7) is provided the regional center and Department which details restraint data for each consumer each month. This allows for ongoing monitoring a tracking of the use of restraint and the ability to identify trends in data.

Rationale

The proposed adoption is necessary to ensure the use of supine restraint is documented and reported to the regional center and Department in a timely manner.

Section 59060.5, Adopt Subd. (c)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59060.5(c), to require that within 48 hours of the use of a supine restraint, the administrator will provide the regional center and Department a copy of the debriefing documentation to the specified address.

Rationale

The proposed adoption is necessary to ensure debriefing documentation is provided to the regional center and Department in a timely manner following the use of supine restraint. This allows the oversight agencies to ensure that the team evaluates the factors that led to the use of supine restraint, evaluates fidelity to plan implementation, ensure least restrictive interventions were attempted first, and alternatives to the use of supine restraint are continually evaluated. The proposed is also necessary to provide the information on where and when to send the debriefing documentation. The requirement to send the documentation within 48 hours of the use of the supine restraint is necessary to provide timely notification so that the oversight agencies are made aware.

Article 7. Records Maintenance

Amend Section 59061. Facility Files.

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 7, Section 59061, to change the term "Facilities" to "Each facility and the term "formats" to "records."

Rationale

The proposed amendment is a non-substantive change to reflect the language in the Community Crisis regulations as set forth in Section 59011.

Section 59061, Amend Subd. (b)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 7, Section 59061(b) to require a log of the hours per employee with the weekly staff schedules that are required to be maintained in the facility files.

Rationale

The proposed amendment is necessary to ensure there is documentation that supports the provision of services and supports by all staff. It is also necessary to include the log of the hours worked per employee specifically because sometimes the staff schedule is a static document, and when staff call out, these changes are not reflected. By requiring hours actually worked, the Department is able to ensure staffing rates, but also ensure that those staff serving are qualified to do so (i.e., if a lead calls out, is a lead equivalent filling in those hours).

Section 59061, Amend Subd. (c)(1), (2), (3) and (4)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 7, Section 59061(c)(1), (2), (3), and (4) to add language that reflects the exact language found in the Community Crisis Homes regulations, including a substantive change that adds “including a log of the hours per employee” for documentation of completed staff training.

Rationale

The proposed amendments are necessary to provide consistency with the requirements found in the Community Crisis Homes regulations as set forth in Section 59011 (C)(1) – (4). The proposed amendments that including a log of the hours per employee are necessary to have documentation of completed staff training, as required. The facility should keep a record of all required and completed trainings staff have attended, including any resultant certificates, which must be available for review and verification by oversight agencies.

Section 59061, Amend Subd. (c)(5)

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59061(c)(5), to add the requirement to include “promotion” with the hire and separation dates in the personnel records for staff working in the facilities.

Rationale

The proposed amendment to add the requirement to document and include the “promotion” dates in the personnel records for staff working in the facilities is necessary for recordkeeping and review and verification by oversight agencies.

Section 59061, Adopt Subd. (c)(6)

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59061(c)(6) to add the requirement for a log with the supervised hours recorded to be included in the personnel records of all Registered Behavior Technicians (RBTs).

Rationale

The proposed regulation is necessary to ensure supervision of behavior-analytic services is received at the necessary rate by a qualified Registered Behavior Technician Supervisor and that the supervision provided is documented. Documentation should be consistent with and include all components as required by the Behavior Analyst Certification Board.

Section 59061, Amend Subd. (d)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59061(d), to remove "as required by the Department of Social Services."

Rationale

The proposed amendment to remove "as required by the Department of Social Services" is necessary as the requirements for the Emergency Intervention Plan are detailed in these proposed regulations as required by the Department of Developmental Services. Furthermore, the proposed amendments are necessary to provide consistency and align with the Community Crisis Homes regulations, as set forth in Section 59011(d).

Section 59061, Amend Subd. (f)

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59061(f) to add the new requirement to include the documentation for regional center's case management monitoring in the facility files.

Rationale

The proposed regulation is necessary to ensure documentation of the regional center's required quarterly face-to-face monitoring and evaluation of services provided in the Enhanced Behavioral Supports Home is maintained in the facility file for the review of the facility and oversight agencies.

Amend Section 59062. Consumer Files.

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59062, changes "Facilities" to "Each facility," adds "individual", and changes electronic "formats" to "records."

Rationale

The proposed amendment is necessary to provide clarity and consistency with the Community Crisis Homes regulations, set forth in Section 59012 and to make sure it is clear that documentation listed in the following section must be maintained for each consumer in the facility.

Section 59062 Amend Subd. (a)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59062(a) to update the cross-reference section based on the current proposed regulations.

Rationale

The proposed amendments are non-substantive changes that correct the terminology used throughout the regulation text and are necessary to provide clarity and consistency with the Community Crisis Homes regulations, set forth in Section 59012(a).

Section 59062, Amend Subd. (e)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59062(e) to specify “Individual Program Plan” rather than “IPP” needs to be maintained in the consumer file.

Rationale

The proposed regulation is necessary to define the acronym IPP to Individual Program Plan for clarity and consistency.

Section 59062, Amend Subd. (g)

Purpose

The proposed regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59062(g) adds, “but not limited to” in the description of data collection methods.

Rationale

The proposed regulation is necessary to clarify that data collection is not limited to those listed in this section and may include other forms/types of data collection that are appropriate and determined based on person-centered and individualized needs.

Section 59062, Adopt Subd. (i)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59062(i), to ensure that the functional behavior assessment required by Section 59059(c)(1) is included in the consumer file and accessible at the facility for review.

Rationale

The proposed adoption to require the functional behavior assessment to be included in the consumer file and accessible at the facility for review is necessary for consistency with Section 59059(c)(1), and because it provides information regarding the implementation of other function-based and evidence-based services and supports developed by the Qualified Behavior Modification Professional (QBMP) and/or other consultants.

Section 59062, Adopt new Subd. (j)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59062, to ensure that the functional behavior assessment is included in the consumer file and accessible at the facility for review to add the debrief documentation to consumer files.

Rationale

The proposed adoption to require the functional behavior assessment is necessary to add this section for consistency and to ensure that the debrief documentation required by Section 59060.4(e) is included in the consumer file and accessible at the facility for review when necessary.

Section 59062, Adopt new Subd. (k)

Purpose

The proposed regulatory action would adopt Title 17, Division 2, Chapter 3, Subchapter 24, Article 6.5, Section 59012, to add any other records containing current emergency or health-related information for current customers to consumer files.

Rationale

The proposed regulatory action is necessary to add this section for consistency and to ensure that the health-related information is included in the consumer file and accessible at the facility for review.

Article 11. Rates

Section 59072, Amend Subd. (a)(1)

Purpose

This regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 11, Section 59072(a)(1) to provide the procedures for the development of rates for both facility costs and individual costs associated with residency, and specifics for payment of said rates for both group homes and adult residential facilities. The amendments update the forms incorporated by

reference: DS 6023 Rate Development - Facility Costs (Rev 5/2020) and DS 6024 Rate Development - Individual Costs Associated with Residency: Form (Rev 5/2020).

Rationale

The proposed amendment is required to update the revised dates of the forms incorporated by reference in these sections of the regulation for consistency and clarity.

Section 59072, Amend Subd. (b)(1)

Purpose

This regulatory action would amend Title 17, Division 2, Chapter 3, Subchapter 24, Article 11, Section 59072(b)(1), to provide procedures for the development of rates for both facility costs and individual costs associated with residency, and specifics for payment of said rates for both group homes and adult residential facilities. The amendments update the forms incorporated by reference:

DS 6023 Rate Development - Facility Costs (Rev 9/2021) and
DS 6024 Rate Development - Individual Costs Associated with Residency: Form (Rev 9/2021).

Rationale

The proposed amendment is required to update the revised dates of the forms incorporated by reference in these sections of the regulation for consistency and clarity.

Incorporation by Reference

The following forms are incorporated by reference in this regulatory proposal:

- DS 6023 Rate Development - Facility Costs (Rev 9/2021); and
- DS 6024 Rate Development - Individual Costs Associated with Residency (Rev 9/2021).

Forms DS 6023 and DS 6024 are incorporated by reference because it would be too cumbersome, unduly expensive, and otherwise impractical to publish the forms in the CCR and because these forms are electronic and auto-populate when data is entered. The specific **Purpose** and rationale for necessity and changes to these forms is explained below.

Necessity and rationale of changes:

Purpose

The following changes were made to **DS 6023 Rate Development - Facility Costs:**

- Header - The revision date at the top of the form was updated to reflect the date of the latest version of the form from (Rev 10/2016) to (Rev 9/2021).
- Section C.1. Total Administrator Payroll Costs (shaded blue) – the word “Administrator” was deleted because the total costs include more than just “administrator costs.”
- Section C.2.j. - “Snacks/Food” was added as a facility related cost, which was formerly on DS 6024 for accurate billing of eligible facility costs for federal reimbursement through federal programs.
- Section C.2.k. Other Costs: Repairs/Maintenance/Modifications, l. Other Costs: Cable and Internet, and m. Other Costs: Describe in Notes – Nonsubstantive changes were made to indicate renumbering as a result of the addition of new C.2.j. Snacks/Food.

The following changes were made to **DS 6024 Rate Development - Individual Costs Associated with Residency**

- Header - The revision date at the top of the form was updated to reflect the date of the latest version of the form from (Rev 10/2016) to (Rev 9/2021).
- Section C.1.a. 2) – The term “Behaviorist” was amended to the appropriate term “Qualified Behavior Modification Professional (QBMP)”.
- Section C.3.a. Deleted “Snacks/Food” costs and added to DS 6023 for accurate billing of eligible facility costs for federal reimbursement through federal programs.
- Section C.3.b. Deleted “Combined Utilities – Additional” for accurate billing of eligible facility costs for federal reimbursement through federal programs.
- Former Section C.3.c., renumbered to C.3.a. as a result of deleting former a. and b. – Consultant “(Non-Behaviorist)” was amended to Consultant “(Non-QBMP),” which is the appropriate term to identify the type of consultant.
- Section C.3.e. Other Costs: Repairs and Maintenance - “Additional” was amended to Other Costs: Repairs and Maintenance – “Individual” to clarify that the repairs/maintenance were for costs associated specifically for that individual resident and therefore, would not apply to the other residents of the facility.
- Section C.3.h. – Other Costs: Describe in Notes was corrected to add “(e.g., cell phone, individual utilities)” to provide examples of the types of costs that should be captured here because there were instances where costs were being reported in this field that would more appropriately reported in one of the other existing fields.

Rationale

The proposed regulatory action to update Forms DS 6023 and DS 6024 is necessary to assist the Department in accurately billing eligible facility costs for federal reimbursement through the Home and Community-Based Services Waiver and 1915i State Plan Amendment (federal programs).

Our federal programs do not allow for billing and reimbursement of room and board expenses, which defines "Room" as shelter type expenses, including all property-related costs such as rental or purchase of real estate and furnishings, maintenance, utilities, and related administrative services, and "Board" as three meals a day or any other full nutritional regimen. Room and board costs (which includes snacks/food and utilities) and are categorized as facility costs per federal definition. To comply with these requirements, DDS' billing system adjusts out room and board costs as part of the process of billing for federal reimbursement for facility costs. Making these changes to the DS 6023 and DS 6024 are necessary for clarity and consistency and allows DDS to identify and adjust for facility costs not eligible for federal reimbursement consistent with federal programs requirements. Furthermore, the changes are necessary to clarify what is required to report for facilities.

The incorporated forms are also available on the Department web site at <https://www.dds.ca.gov/transparency/dds-forms/> or upon request to the Department via emailing to: RegulationsMailing@dds.ca.gov.

BENEFITS ANTICIPATED FROM THE REGULATORY ACTION

The adoption of these regulations is necessary to permit the continued availability of the residential options authorized by SB 856 and to establish program standards, consumers' rights protections, and other requirements for these homes. The benefit of these regulations is in furthering the intent of SB 856 and the Lanterman Act: to minimize institutionalization by establishing community living options to meet the needs of individuals with challenging behaviors and who would otherwise be at risk of admission to or continued placement in more restrictive, locked institutional settings, or placement out of state. The regulatory requirements are designed to protect the rights of consumers admitted to Enhanced Behavioral Supports Homes, including periodic reassessments of the continued appropriateness of the placement for each consumer.

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

DDS has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed regulations are a continuation of the current emergency regulations for Community Crisis Homes and adds the same requirements to the Enhanced Behavioral Supports Homes. The authorizing statutes permit but do not require the establishment of Community Crisis Homes and Enhanced Behavioral Supports Homes. DDS also made an initial determination that the proposed regulations may impact small business as a result of filing of these regulations because the regulations govern program requirements for licensed residential care providers who choose to operate Community Crisis and Enhanced Behavioral Supports Homes.

ECONOMIC IMPACT ASSESSMENT

The proposed regulations clarify and interpret W&I Code, Section 4684.86. The authorizing statutes permit but do not require the establishment of Enhanced Behavioral Supports Homes, and the program standards for their development. These standards include program plan requirements, staffing structure, staff qualifications and training, requirements and timelines for the completion and updating of consumers' Individual Behavior Supports Plans, admission and continued stay requirements, requirements for ensuring appropriate services and supports are provided at the time of admission, the rate methodology, and assurances of consumer rights and protections.

In accordance with Government Code, Section 11346.3(b), the Department has made the following assessments regarding the proposed regulations:

Creation or Elimination of Jobs within the State of California

Developing regulations for Enhanced Behavioral Supports Homes, will not result in the creation or elimination of jobs in California.

Creation of New or Elimination of Existing Businesses within the State of California

The proposed regulations establish procedures, consumer safeguards, and program standards related to development of Enhanced Behavioral Supports Homes. No new businesses in California will be created or existing businesses eliminated.

Expansion of Businesses Currently Doing Business within the State

The proposed regulations establish procedures, consumer safeguards, and program standards related to development of Enhanced Behavioral Supports Homes. There will be no expansion of businesses currently doing business within the state as a result of the proposed regulations.

Benefits of the Regulations to the Health and Welfare of California Residents, Worker Safety, and the State's Environment

These regulations are expected to improve the health and welfare of California residents with developmental disabilities by filling an unmet need and enabling the development of previously unavailable community living alternatives for individuals who require intensive services and supports due to challenging behaviors. SB 856, Section 4684.86 of the W&I Code, and the proposed regulations benefit the general welfare of people with developmental disabilities by furthering the intent of the Lanterman Act, as well as the federal Americans with Disabilities Act, to support their integration into the community. Otherwise, the proposed regulations will not affect the health and welfare of California residents in general and will not affect worker safety or impact the state's environment.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS OR DOCUMENTS

The Department has not relied on any technical, theoretical, and/or empirical study, reports or documents.

STATEMENT OF ALTERNATIVES CONSIDERED

DDS has determined that no reasonable alternative considered or that has otherwise been identified and brought to the attention of DDS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.