# Amend Section 82000 to read:

## 82000 GENERAL

(a) Adult day programs, as defined in Health and Safety Code Section 1502(a)(2), shall be governed by the provisions specified in this chapter. In addition, Subchapter 1 of this chapter shall apply when a licensee either uses or reasonably foresees the use of a manual restraint or seclusion unless otherwise stated.

(1) Notwithstanding 82000(a)(2) below, Section 82102 shall apply to all Adult Day Programs.

(2) If an Adult Day Program does not accept or have clients that may require the use of manual restraint or seclusion for emergency interventions, then the Adult Day Program is exempt from Subchapter 1 of this chapter.

Authority cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1502(a)(2), 1530 and 1531, Health and Safety Code.

# Amend Section 82061 to read:

## 82061 REPORTING REQUIREMENTS

(a) Upon the occurrence, during the hours the day program is providing services to the client, of any of the events specified in Section 82061(a)(1), a report shall be made to the licensing agency within the agency’s next working day during its normal business hours. In addition, a written report containing the information specified in Section 82061(a)(2) shall be submitted to the licensing agency within seven days following the occurrence of the event.

(1) Events reported shall include, but not be limited to, the following:

(A) Death of any client from any cause;

(B) Any injury to any client which requires medical treatment;

(C) The use of an Automated External Defibrillator;

(D) Any unusual incident which threatens the physical or emotional health or safety of any client;

(E) Any suspected psychological abuse of any client;

(F) Epidemic outbreaks;

(G) Poisonings;

(H) Catastrophes; and

(I) Fires or explosions which occur in or at the program site.

 (2) Information provided shall include the following:

(A) Client’s name, age, sex or gender, and date of admission;

(B) Date and nature of event;

(C) Attending physician’s name, findings, and treatment, if any; and

(D) Disposition of the case.

(b) Any suspected physical abuse that results in serious bodily injury of an elder or dependent adult shall be reported to the local ombudsman, the corresponding licensing agency, and the local law enforcement agency within two (2) hours as required by Welfare and Institutions Code Section 15630(b)(1).

(c) (Continued)

(d) (Continued)

(e) The items specified in Sections 82061~~(b)~~(a)(1)(A) through (I) also shall be reported to the client’s authorized representative, if any.

(f) The items specified in Sections 82061~~(b)~~(a)(1)(F) and (G) also shall be reported to the local health officer when appropriate pursuant to Title 17, California Code of Regulations, Sections 2500 and 2502.

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(g) The item specified in Section 82061~~(b)~~(a)(1)(I) also shall be reported immediately to the local fire authority. In areas not having organized fire services, a report shall be made to the State Fire Marshal within 24 hours.

Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1501, 1507, 1520 and 1531, Health and Safety Code; and Section 15630, Welfare Institutions Code.

# Amend Section 82068.2 to read:

## 82068.2 NEEDS AND SERVICES PLAN

(a) through (e) (Continued)

(f) The completed Needs and Services Plan shall include:

(1) The client’s desires and background and formal supports, obtained from the client, the client’s family or their ~~his/her~~ authorized representative, if any, regarding the following:

 (A) through (F) (Continued)

(2) through (5) (Continued)

(g) (Continued)

(h) The licensee shall document the results of the initial assessment of the client, conducted pursuant to Health and Safety Code section 1180.4(a) prior to or on the day of admission.

 (1) The licensee shall document the initial assessment based on information available at the time of the assessment. This information shall be maintained and made current thereafter as needed.

 (2) This assessment shall include, but not be limited to, input from the following parties: the client, authorized representative, if any, and, if the client chooses, a person designated by the client. That designated person may be present at the time of admission in accordance with Health and Safety Code section 1180.4(a).

 (3) This assessment shall also include, based on the information available at the time of the initial assessment, all of the following:

 (A) A client’s advance directive regarding de-escalation or the use of seclusion or manual restraints. This advance directive means the client’s wishes regarding techniques the licensee will use related to de-escalation or the use of restraint and seclusion.

 1. The licensee shall be required to honor the client’s advance directive unless it violates statute, regulation, or jeopardizes the health or safety of the client or another person.

 2. A de-escalation technique is one designed to defuse a potentially dangerous interaction between two or more individuals.

 (B) Identification of early warning signs, triggers, or any actions or situations that cause the client to escalate, and identification of the earliest cause of aggression for the client, with a known or suspected history of aggressiveness, or who is currently aggressive.

 (C) Techniques, methods or tools that would help the client control their behavior.

 (D) Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.

 (E) Any trauma history, including any history of sexual or physical abuse, the client feels is relevant.

HANDBOOK BEGINS HERE

 Health and Safety Code section 1180.4 provides in part:

(a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct an initial assessment of each person prior to placement decision or upon admission to the facility, or as soon thereafter as possible. This assessment shall include input from the person and from someone whom he or she desires to be present, such as a family member, significant other, or authorized representative designated by the person, and if the desired third party can be present at the time of admission. This assessment shall also include, based on the information available at the time of initial assessment, all of the following:

(1) A person’s advance directive regarding de-escalation or the use of seclusion or behavioral restraints.

(2) Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.

(3) Techniques, methods, or tools that would help the person control the person's behavior.

(4) Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.

(5) Any trauma history, including any history of sexual or physical abuse that the affected person feels is relevant.

HANDBOOK ENDS HERE

 (F) The client’s Individual Emergency Intervention Plan, as required by Section 82168.2(a).

Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1180.4, 1501 and 1531, Health and Safety Code.

# Adopt Division 6, Chapter 3, Subchapter 1, Article 1, Section 82100 to read:

SUBCHAPTER 1. EMERGENCY INTERVENTION

Article 1. GENERAL REQUIREMENTS

## 82100 GENERAL PROVISIONS

(a) In addition to Chapter 3, the licensee of an Adult Day Program is governed by the provisions of this subchapter when a licensee utilizes or reasonably foresees that they will utilize a manual restraint or seclusion.

(1) If an Adult Day Program does not accept or have clients that may require the use of manual restraint or seclusion for emergency interventions, then the Adult Day Program is exempt from this subchapter.

(2) Notwithstanding Section 82100(a)(1), all Adult Day Programs shall comply with Subchapter 1, Article 2, Section 82102.

(b) When a client's behavior presents an imminent danger of serious injury to self or others, the licensee shall use intervention techniques starting with the least restrictive intervention. More restrictive interventions may be used only when less restrictive interventions are determined to be ineffective.

HANDBOOK BEGINS HERE

 Health and Safety Code section 1180.4(j) provides:

 A facility described in Subdivision (a) of Section 1180.2 or Subdivision (a) of Section 1180.3 shall afford to persons who are restrained the least restrictive alternative and the maximum freedom of movement, while ensuring the physical safety of the person and others, and shall use the least number of restraint points.

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(c) Adult Day Programs staff may use manual restraint or seclusion on a client only if:

 (1) The force used does not exceed that which is necessary to avert the danger being threatened;

 (2) The risk of injury caused by the force applied does not exceed the risk of injury being averted;

(3) A client's behavior presents an imminent danger of serious injury to self or others;

(d) The duration of a manual restraint or seclusion ceases as soon as the risk of imminent danger of serious injury to self or others from the client's behavior has ceased; and

(e) The manual restraint or seclusion is not otherwise prohibited by statute or regulation.

Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1180.4, 1501, 1502, 1531 and 1562.3(c)(1)(I), Health and Safety Code.

# Adopt Section 82101 to read:

## 82101 DEFINITIONS

In addition to the definitions in Section 82001, the following shall apply:

(a) (Reserved)

(b) (1) "Behavior Management Consultant" means a person who designs and/or implements behavior modification intervention services and meets one of the following requirements:

 (A) A Licensed Clinical Social Worker, pursuant to Business and Professions Code sections 4996-4998.5.

 (B) A Licensed Marriage and Family Therapist, pursuant to Business and Professions Code sections 4980-4984.7.

 (C) A psychologist, licensed by the Medical Board of California or Psychology Examining Board.

 (D) A licensed registered nurse, pursuant to Business and Professions Code section 2700 and subsequent Sections, possessing a master's degree in psychiatric-mental health nursing and listed as a psychiatric-mental health nurse by the Board of Registered Nursing.

 (E) An advanced practice registered nurse, certified as a clinical nurse specialist, pursuant to Business and Professions Code section 2838 and subsequent sections, and participating in expert clinical practice in the specialty of psychiatric-mental health nursing.

 (F) A Nurse Practitioner, as defined in the Business and Professions Code section 2834.

 (G) A professional with training and expertise in human behavior with California licensure, which permits the design of behavior modification intervention services.

(c) (1) "Chemical Restraint" means involuntary emergency medication used to control behavior. This includes drugs used for control of inappropriate behavior and used in a manner not required to treat the individual's medical symptoms.

 (2) "Clinical and Quality Review" means a review that is strictly objective and based on training and the Plan of Operation.

 (3) "Containment" means a brief physical (manual) restraint of a person for the purpose of effectively gaining quick control of a person who is aggressive or agitated or who is a danger to self or others as defined in Section 1180.1(b) of the Health and Safety Code.

(d) (Reserved)

(e) (1) "Emergency Intervention(s)" means safety measures to prevent imminent danger of serious physical harm to an individual and the methods used to offer immediate, short-term help to clients who experience an event that produces emotional, mental, physical, and behavioral distress or problems that have the potential to result in injury to self or others.

 (2) "Emergency Intervention Plan" means a written plan, addressing the prevention of injury and implementation of emergency intervention techniques by the licensee, that is included in the program's plan of operation as required by Section 82122(a)(1).

 (3) "Emergency Intervention Training" means an instructional curriculum provided to program personnel regarding the techniques that may be used to prevent injury to, and maintain safety for, clients who are a danger to themselves or others, and shall emphasize positive behavioral supports and techniques that are alternatives to physical restraint and seclusion in accordance with Health and Safety Code section 1180.3(b)(2).

(f)-(h) (Reserved)

(i) (1) "Imminent Danger," in this subchapter means behavior that is reasonably certain to cause a substantial risk of death or serious physical injury.

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

(j)-(l) (Reserved)

(m) (1) "Manual Restraint" means the same as "Physical Restraint" as defined in Health and Safety Code section 1180.1(d), which means the use of a manual hold to restrict freedom of movement of all or part of a client's body, or to restrict normal access to the client's body, and that is used as a behavioral restraint on a client who presents an immediate danger to themselves or to others. Techniques include, but are not limited to, forced escorts; holding; wall restraint; brief prone restraint; or any staff-to-person physical contact in which the person unwillingly participates.

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 Health and Safety Code section 1180.1 provides in pertinent part:

(a) "Behavioral restraint'' means "mechanical restraint" or "physical restraint" as defined in this section, used as an intervention when a person presents an immediate danger to self or to others. It does not include restraints used for medical purposes, including, but not limited to, securing an intravenous needle or immobilizing a person for a surgical procedure, or postural restraints, or devices used to prevent injury or to improve a person's mobility and independent functioning rather than to restrict movement […]

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

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(m) (2) "Mechanical Restraint" is defined in Health and Safety Cody section 1180.1(c), and means the use of a mechanical device, material, or equipment attached or adjacent to the client's body that they cannot easily remove and that restricts the freedom of movement of all or part of a client's body or restricts normal access to the client's body, and that is used as a behavioral restraint. Mechanical restraint devices include, but are not limited to, soft cloth ties, handcuffs, restraining sheets, restraining chairs, leather cuffs and belts or any other similar method. Mechanical restraint does not include postural supports, as specified in Section 82072(a)(8).

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 Health and Safety Code section 1180.1 provides in pertinent part:

 (c) "Mechanical restraint" means the use of a mechanical device, material, or equipment attached or adjacent to the person's body that he or she cannot easily remove and that restricts the freedom of movement of all or part of a person's body or restricts normal access to the person's body, and that is used as a behavioral restraint.

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(n)-(p) (Reserved)

(q) (1) "Qualified Behavior Modification Professional" means an individual with a minimum two years of experience in designing, supervising, and implementing behavior modification services who is one of the following:

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

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

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

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

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

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

(r) (Reserved)

(s) (1) "Seclusion" as defined in Health and Safety Code section 1180.1(e).

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 Health and Safety Code section 1180.1(e) provides:

 (e) "Seclusion" means the involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. "Seclusion" does not include a 'timeout' as defined in regulations relating to facilities operated by the State Department of Developmental Services.

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 (2) "Seclusion Room" means a room specifically designated and designed for the involuntary seclusion of a client for a limited period when a client's behavior presents an imminent danger of serious injury to self or others. No person with a developmental disability may be placed in a seclusion room in accordance with Title 17, Section 50515(a).

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Title 17, California Code of Regulations, Division 2, Chapter 1, Subchapter 5, Article 2, Section 50515 provides in pertinent part:

 (a) Seclusion. No person with a developmental disability shall be placed in seclusion. The use of "time out" procedures may be employed only under the following circumstances:

 (1) State Hospital. The procedure used complies with regulations promulgated by the director pursuant to Welfare and Institutions Code section 4505.

 (2) Community Care or Health Facility. A written agreement exists between the placing regional center and the facility which complies with regulations promulgated by the director pursuant to Welfare and Institutions Code section 4505.

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 (3) "Serious Injury" as defined in Health and Safety Code section 1180.1(g).

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 Health and Safety Code section 1180.1 provides in pertinent part:

 (g) "Serious injury" means significant impairment of the physical condition as determined by qualified medical personnel, and includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, or injuries to internal organs.

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(t) "Time-Out" means separating the client from the current environment, voluntarily and without force, to calm and allow the client to regain self-control.

(u)-(z) (Reserved)

Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1180, 1180.1, 1180.3, 1180.4, 1180.5, 1501 and 1531, Health and Safety Code. Sections 2700, 2834, 2838, 4996-4998.5, 4980-4984.7, Business and Professions Code. Sections 50515, 54342, California Code of Regulations, Title 17.

# Adopt Section 82102 to read:

ARTICLE 2. PROHIBITIONS

82102 EMERGENCY INTERVENTION PROHIBITIONS

Notwithstanding 82100(a), Section 82102 shall apply to all Adult Day Programs as follows:

(a) The following emergency interventions shall not be used on a client:

 (1) Mechanical restraints;

 (2) Manual restraint as an extended procedure;

 (3) Manual restraint or seclusion when imminent danger is not present;

 (4) Adverse behavior modifications, including but not limited to body shaking, water spray, slapping, pinching, ammonia vapors, sensory deprivation and electric shock;

 (5) Pain, including but not limited to arm twisting, finger bending, joint extensions and headlocks;

 (6) Any manual restraint technique that obstructs a client's airway or impairs or restricts breathing or circulation;

 (7) Manual restraint with the client’s hands held or restrained behind the client's back;

 (8) Any manual restraint technique in which a staff member places pressure on a client's back or places his or her body weight against the client's torso or back;

(9) Placement of an item that covers the head or face;

 (A) Padding, placed under the head, to prevent injury is permitted, provided it does not impair breathing.

 (10) Chemical restraint or psychotherapeutic or behavior modifying drugs in a manner prohibited by Health and Safety Code section 1180.4(k);

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 Health and Safety Code section 1180.4(k) provides:

 A person in a facility described in subdivision (a) of Section 1180.2 and subdivision (a) of Section 1180.3 has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, the right to be free from the use of a drug used in order to control behavior or to restrict the person's freedom of movement, if that drug is not a standard treatment for the person's medical or psychiatric condition.

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 (11) Techniques reasonably expected to cause serious injury that may require medical treatment from a health practitioner, licensed under Division 2 of the Business and Professions Code;

 (12) Verbal abuse or physical threats;

 (13) Isolation in an area from which the client cannot voluntarily exit including, but not limited to, denying a request from a non-ambulatory client to exit a chair or an unlocked room. This prohibition does not apply to a Seclusion Room;

 (14) Manual restraint or seclusion for more than 15 consecutive minutes unless the licensee is in compliance with Section 82122(e)(6);

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 Health and Safety Code section 1180.4(h) provides:

 A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use physical restraint or containment as an extended procedure. A facility described in subdivision (a) of Section 4684.80 or paragraph (1) of subdivision (a) of Section 4698 of the Welfare and Institutions Code that is licensed by the State Department of Social Services shall not use physical restraint or containment for more than 15 consecutive minutes. The department may, by regulation, authorize an exception to the 15-minute maximum duration if necessary to protect the immediate health and safety of residents or others from risk of imminent serious physical harm and the use of physical restraint or containment conforms to the facility program plan approved by the State Department of Developmental Services pursuant to subdivision (i) of Section 4684.81 or subdivision (d) of Section 4698, as applicable, of the Welfare and Institutions Code.

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 (15) Punishment, discipline, harassment, humiliation, coercion or retaliation.

(b) Manual restraint or seclusion shall not be used:

 (1) As a substitution for staff;

 (2) For the convenience of staff;

 (3) As a substitute for, or as part of, a treatment program;

 (4) As a substitute for, or as part of, a behavior modification program;

 (5) To prevent a client from leaving a room or area or the program when there is no immediate threat to health and safety of the individual or others.

 (6) When a client's medical or physical condition or the Client Medical Assessment indicates that there is reason to believe that the intervention would endanger the client's life or significantly worsen the client's medical condition.

 (7) If it is prohibited by the program’s Emergency Intervention Plan or the client's Individual Emergency Intervention Plan;

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 Health and Safety Code section 1180.4(d) provides:

 (d) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use physical or mechanical restraint or containment on a person who has a known medical or physical condition, and there is reason to believe that the use would endanger the person's life or seriously exacerbate the person's medical condition.

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Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1180.3, 1180.4, 1501, 1502, and 1531, Health and Safety Code.

# Adopt Article 3, Section 82122 to read:

Article 3. APPLICATION AND LICENSING PROCEDURES

## 82122 EMERGENCY INTERVENTION PLAN

(a) If staff use, or it is reasonably foreseeable that staff will use, manual restraint or seclusion, the applicant or licensee shall be responsible to ensure an Emergency Intervention Plan is developed and approved by the Department prior to the use of such techniques.

 (1) The Emergency Intervention Plan shall be designed and approved by the applicant or licensee in conjunction with a Behavior Management Consultant and shall be part of the Plan of Operation.

(b) The Emergency Intervention Plan shall specify the less restrictive or non-physical de-escalation methods that may be used to identify and prevent behaviors that lead to the use of manual restraint or seclusion.

(c) The Emergency Intervention Plan shall also specify the techniques that a licensee may use in an emergency when the use of manual restraint or seclusion is necessary to prevent the serious physical harm or death of the client and less restrictive or non-physical techniques are not effective.

(d) The Emergency Intervention Plan shall include:

 (1) Staff qualifications and training sufficient to implement the plan.

 (2) A list of job titles of the staff required to be trained to use manual restraint and/or seclusion.

 (3) A list of emergency intervention techniques beginning with the least restrictive intervention, which shall include:

1. A description of each emergency intervention technique that may be used.
2. If prone containment is listed and described as an emergency intervention technique that may be used in the Emergency Intervention Plan as required in Section 82122(d)(3)(A), it shall only be used in compliance with Section 1180.4(f) of the Health and Safety Code.

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Health and Safety Code Section 1180.4(f) provides in pertinent part:

 (f) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall avoid the deliberate use of prone containment techniques whenever possible, utilizing the best practices in early intervention techniques, such as de-escalation. If prone containment techniques are used in an emergency situation, a staff member shall observe the person for any signs of physical duress throughout the use of prone containment. Whenever possible, the staff member monitoring the person shall not be involved in restraining the person.

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 (B) The maximum time limits for each manual restraint and/or seclusion technique, not to exceed maximum time limits, as specified in Sections 82102(a)(14).

 (C) The purpose or expected outcome for clients.

 (4) A description of the circumstances and the types of client behaviors for which the use of emergency interventions are needed.

 (5) Procedures for maintaining care and supervision and reducing the trauma of other clients when staff are required for the use of emergency interventions.

 (6) Procedures for crisis situations, when more than one client requires the use of emergency interventions simultaneously.

 (7) Procedures for re-integrating the client into the program routine after the need for an emergency intervention has ceased.

 (8) Criteria for assessing when an Emergency Intervention Plan needs to be modified or terminated.

 (9) Criteria for assessing when the licensee does not have adequate resources to meet the needs of a specific client.

 (10) Criteria for assessing when community emergency services personnel are necessary to assist staff during an emergency intervention.

 (A) A list of the community emergency services to assist staff.

 (11) Procedures to ensure a client in crisis does not injure or endanger self or others.

 (12) Criteria for assessing when an Individual Emergency Intervention Plan needs to be modified or terminated.

 (13) A statement clarifying that only staff trained as required by Section 82165(b) may use emergency interventions.

(e) If the staff uses, or it is reasonably foreseeable that the staff will use, manual restraint or seclusion, or both, the licensee shall ensure the time limitations in the Emergency Intervention Plan are adhered to. The Emergency Intervention Plan shall include the following:

 (1) A procedure for client safety when a manual restraint or seclusion is used, including the title(s) of staff responsible for checking the client's breathing and circulation.

 (A) A determination for when a medical examination is needed during or after a manual restraint or seclusion, as specified in Section 82169.

 (2) The use of manual restraint or seclusion, or both, shall not be used if a less restrictive, nonphysical intervention is possible. The use of manual restraint or seclusion, or both, shall not cause injury to the client or others in the program.

 (3) The amount of time a client is in a manual restraint or seclusion is limited to when the client is presenting an imminent danger to self or others.

 (4) The staff shall respond immediately and appropriately to a client's request for services, assistance and repositioning.

 (5) During the continued use of a manual restraint or seclusion, a staff person who has completed all regulatory required emergency intervention training and any additional training required by the Emergency Intervention Plan, and who is not involved in the use of the manual restraint or seclusion shall perform an assessment which shall include, but is not limited to, the following:

 (A) A visual check of the client's physical well-being to ensure the client is not injured and the client's breathing and circulation are not impaired;

 (B) Whether community emergency services, as described in Section 82122(d)(10)(A), needs to be called;

 (C) Ensuring the safety of the client;

 (D) Ensuring the safety of staff involved;

 (E) Determining if the client's behavior poses an imminent danger of serious physical harm; and

 (F) Determining if a less restrictive intervention is warranted.

 (6) Unless discontinued sooner, at 15 consecutive minutes after the initiation of a manual restraint or seclusion, staff shall discontinue the manual restraint or seclusion.

 (A) The only exception to the 15-minute limitation above shall be when there is a continued need to protect the immediate health and safety of the client or others from risk of imminent danger and concurrent approval is obtained by the administrator for every exception.

 1. The administrator's approval shall be documented in the client record within 24 hours and also include an explanation of why it was necessary for the manual restraint or seclusion to go over 15 minutes, including a description of the client's imminently dangerous behavior.

 2. The administrator mentioned in Section 82122(e)(6)(A)1. above shall not be a participant in the manual restraint.

 (7) The licensee shall outline in the Emergency Intervention Plan the procedures to ensure the safety of clients and staff if the client continues to pose an immediate danger to self or others after 15 consecutive minutes of manual restraint or seclusion.

 (8) Procedures for client safety when a client is placed in a seclusion room, including the following:

 (A) Staff shall be free from other responsibilities and maintain direct visual contact with the client at all times. The visual contact shall not be through video and/or audio equipment or electronic transmission

 (B) Staff shall make reasonable efforts to ensure the client does not possess objects that could be used to inflict injury to self or others while in the seclusion room.

(C) Seclusion rooms shall be limited to one client at a time.

 (9) Each use of manual restraint or seclusion is documented in the client's record.

 (10) There is a review after each use of manual restraint or seclusion, as specified in Section 82168.3.

 (11) Access to necessary community emergency services, including emergency response personnel, when the use of emergency interventions is not effective or appropriate.

 (12) Staff are aware of the client's medical or physical condition(s), and comply with any necessary limitations or prohibition of the use of manual restraint or seclusion.

 (13) When staff are involved in a manual restraint or seclusion, there shall be additional staff to provide care and supervision to the other client(s) who are not involved in the manual restraint or seclusion.

(f) The Emergency Intervention Training Plan shall be a component of the Emergency Intervention Plan and shall include:

(1) Training requirements for new staff;

(2) The course type, title and a brief description of the required training;

 (3) The ongoing training requirement for existing staff including timeframes and frequency of refresher training to ensure staff maintain their knowledge;

 (4) Training curriculum;

 (5) The qualification(s) of the instructor(s) providing the training.

 (6) Evidence that the training plan is based on research and that the training topics are appropriate for the client population and services provided by the program.

(g) The Emergency Intervention Plan shall include procedures for an internal six-month review of the use of manual restraint and seclusion which shall include:

 (1) A review conducted by the administrator or the administrator's designee and the Qualified Behavior Modification Professional;

 (2) An analysis of patterns and trends of the use of manual restraint and seclusion in the previous six-month period, based on a review of:

 (A) All records related to the use of manual restraint and seclusion for accuracy and completeness;

 (B) The use, outcome, and duration of each manual restraint or seclusion, including injuries and determinations of the appropriateness of the manual restraint and seclusion technique used in each situation; and

 (C) The frequency of use of manual restraint(s) and seclusion(s) in the licensed facility.

 (3) The development of a corrective action plan to resolve problems identified in the six-month review, including amendments to the Emergency Intervention Plan or other internal procedures.

(h) Documentation of the six-month review, corrective action plan, and a copy of all emergency intervention incident reports shall be maintained at the program and shall be available for review, inspection, audit, and copy, upon request by the Department.

 (1) The licensee shall document when no manual restraint or seclusion has occurred.

 (2) A copy of the six-month review shall be maintained in the client's record and available for review, inspection, audit and copy, upon request, by the Department, as specified in Section 82070.

(i) The licensee shall provide a copy of the six-month review and corrective action plan to the client's authorized representative, if any, upon request.

(j) The licensee shall immediately discontinue the use of manual restraint or seclusion if both of the following apply:

 (1) The licensee has used a manual restraint or seclusion and has been cited for non-compliance.

 (2) The Department provided written notice to the licensee prohibiting the use of manual restraints or seclusion.

Authority cited: Sections 1530, 1530.1, 1567.64 and 1567.82, Health and Safety Code.

Reference: Sections 1180, 1180.3, 1180.4, 1180.5, 1501 and 1531, Health and Safety Code.

# Adopt Article 6, Section 82161 to read:

Article 6. CONTINUING REQUIREMENTS

## 82161 EMERGENCY INTERVENTION DOCUMENTATION AND

 REPORTING REQUIREMENTS

(a) Each use of manual restraint or seclusion shall be reported to the client's authorized representative, by telephone, no later than the next calendar day. This report shall include the type of emergency intervention used, the duration of the manual restraint or seclusion, the time the event was reported to the authorized representative, and the time and response of the authorized representative and shall be documented in the client's file.

(b) Each use of manual restraint or seclusion shall be reported to the Department in writing no later than the next business day. This time frame shall supersede the reporting time frame required by Section 82061(a).

 (1) An incident report of the use of the manual restraint or seclusion shall be reviewed for accuracy and completeness and signed by the licensee or licensee's designee prior to submission to the Department.

 (2) If a manual restraint or seclusion technique that was not part of the program’s Emergency Intervention Plan or the Individual Emergency Intervention Plan was used during the emergency intervention, the plan for corrective action, at minimum, shall require staff to repeat the emergency intervention training. Within 24 hours of the licensee's discovery of non-compliance with the Emergency Intervention Plan, the licensee shall also submit a plan for corrective action to the Department detailing how another violation of the Emergency Intervention Plan will be prevented. This plan for corrective action shall not restrict the Department's authority to enforce applicable law.

(c) The report in Section 82161(b) above must include the following:

 (1) A description of the client's behavior that required the use of manual restraint or seclusion, and description of the factors which caused the manual restraint or seclusion, including the behaviors of others which led to the intervention.

 (2) Description of what manual restraints were used, how long the client was restrained or secluded, and if the restraint resulted in the use of seclusion.

 (3) A description of what non-physical interventions were utilized prior to the use of the manual restraint or seclusion and explanation of why more restrictive interventions were necessary.

 (4) The client's verbal response and physical appearance, including a description of any injuries at the completion of the manual restraint or seclusion, whether they are related to the manual restraint or seclusion, what type of medical treatment was sought, where the client was taken, or an explanation if medical treatment was not sought for injuries, and how the licensee became aware of any injuries.

 (5) Description of any injuries sustained by staff, what type of medical treatment was sought and either where the staff was taken, or an explanation if medical treatment was not sought for injuries.

 (6) Name(s) of program personnel who participated in or witnessed the manual restraint or seclusion.

 (7) If the manual restraint or seclusion continued for more than 15 minutes, the name of the administrator who approved the continuation of the manual restraint or seclusion.

 (8) If it is determined in the debriefing, as required in Section 82168.3, that program personnel did not adequately attempt other de-escalation methods to prevent the manual restraint or seclusion, a description of what action should have been taken by program personnel to prevent the manual restraint or seclusion incident shall be documented. This documentation shall also include what corrective action will be taken or not taken and why.

 (9) If law enforcement was involved, a description of the precipitating factors, including the behaviors of others, which led to the police intervention.

 (10) Date and time of other manual restraint or seclusion involving the same client in the past 24 hours.

(d) If it is necessary to continue the use of manual restraint or seclusion for more than 15 minutes it shall be documented in accordance with Section 82122(e)(6)(A)1.

(e) A copy of the incident report shall be made available for review, inspection, audit or copy, upon request, by the Department as specified in Section 82070.

(f) The information required in Subdivision (b), shall be documented following the use of manual restraint or seclusion no later than the end of the working shift(s) of the staff(s) who participated in the manual restraint or seclusion, or both.

(g) The licensee shall maintain a monthly log of information related to each use of manual restraint or seclusion, which includes:

 (1) The name of each client for which a manual restraint or seclusion was used.

 (2) The date and time of the manual restraint or seclusion.

 (3) The duration of time of the manual restraint or seclusion.

 (4) The behaviors of others connected to the incident and factors that contributed to the incident.

 (5) The name(s) and job title(s) of staff that participated in the manual restraint or seclusion.

 (6) The name of the administrator that approved the continuation of the manual restraint or seclusion for more than 15 minutes, if applicable.

 (7) A description of the manual restraint or seclusion and type used, including:

(A) The outcome to the client, including injury or death.

(B) The outcome to the staff, including injury or death.

 (C) Whether the injury in Section 82161(g)(7)(A) and (B) above was serious as defined in Health and Safety Code section 1180.1(g)

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 Health and Safety Code section 1180.1 provides in pertinent part:

 (g) "Serious injury" means significant impairment of the physical condition as determined by qualified medical personnel, and includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, or injuries to internal organs.

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(8) The total number of incidents of manual restraint and the total number of incidents of seclusion per month.

 (9) The total number of serious injuries to clients as a result of manual restraint or seclusion per month.

 (10) The total number of non-serious injuries to clients as a result of manual restraint or seclusion per month.

 (11) The total number of serious injuries to staff as a result of manual restraint or seclusion per month.

 (12) The number of deaths per month that occur to a client while in a manual restraint or seclusion, or where it is reasonable to assume that a death was related to the use of manual restraint or seclusion.

(h) The monthly log specified in (g) shall be available for review, inspection, audit and copy, upon request, by the Department.

Authority cited: Section 1530, 1530.1 Health and Safety Code.

Reference: Sections 1180.1, 1180.3, 1180.5, 1501 and 1531, Health and Safety Code.

# Adopt Section 82165 to read:

## 82165 EMERGENCY INTERVENTION STAFF TRAINING

(a) The licensee shall ensure staff who use, participate in, approve, or provide visual checks of manual restraint or seclusion only use techniques specified in the Emergency Intervention Plan and which are not prohibited in Section 82102.

(b) Staff who use, participate in, approve or provide visual checks of manual restraint or seclusion, shall have a minimum of sixteen hours of emergency intervention training and be certified for having successfully completed the training.

 (1) Staff who use, participate in, approve, or provide visual checks of manual restraints or seclusions, shall be trained in the manual restraint or seclusion technique utilized.

 (2) Staff shall maintain valid certification.

 (3) Staff shall have a minimum of 6 hours of annual refresher training following the initial training certification. The provisions specified in Sections 82165(c)-(e) and (g) shall also apply to this training.

(c) The training shall be provided by an individual holding a valid instructor certificate from a program for preventing and safely managing dangerous behavior. The licensee shall maintain a copy of the trainer's certificate and make it available for review, inspection, audit, and copy, upon request, by the Department.

(d) The emergency intervention training curriculum shall address, at a minimum, the following:

 (1) Techniques of group and individual behavior management, including, but not limited to, crisis prevention and intervention, positive behavioral supports, and precipitating factors leading to assaultive behavior.

 (2) Methods of de-escalating volatile situations, including, but not limited to, non-physical intervention techniques such as crisis communication, or evasive techniques.

 (3) Alternative methods of handling aggressive and assaultive behavior.

 (4) If the licensee chooses to use manual restraints, the techniques of applying manual restraints in a safe and effective manner, ranging from the least to most restrictive type(s) of manual restraints, including, but not limited to, escorting, wall restraint, and floor containment.

 (5) Techniques for reintegrating the client back into the program routine after the need for the emergency intervention has ceased.

 (6) Methods of assessing client specific information regarding how to keep a client safe.

(e) Training for manual restraint and/or seclusion shall have a written competency test and a hands-on competency test administered by a certified trainer. The certified trainer shall be present for the hands-on competency test.

(f) The administrator who will approve the continued use of a manual restraint or seclusion shall complete additional training which shall include the following:

 (1) Techniques to identify staff and client behaviors, events, and environmental factors that may trigger circumstances that require the use of a manual restraint or seclusion;

 (2) The use of nonphysical intervention skills;

 (3) Choosing the least restrictive intervention based on the individualized assessment of the client's medical, or behavioral status or condition as required by Sections 82068.2 and 82069;

 (4) The safe application and use of all types of manual restraints or seclusions permitted in the program, including training in how to recognize and respond to signs of physical and psychological distress, such as positional asphyxia;

 (5) Identification of specific behavioral changes that indicate that a manual restraint or seclusion is no longer necessary;

 (6) Monitoring the physical well-being of the client who is being manually restrained or secluded, including, but not limited to, respiratory and circulatory status, skin integrity, and vital signs. This shall not mean monitoring that requires training beyond basic first aid and CPR;

 (7) Current first aid certification and current certification in the use of cardiopulmonary resuscitation (CPR).

(g) All direct care staff and any other person in their direct management chain, up through and including the licensee, shall be trained in the program Emergency Intervention Plan and on each client's Individual Emergency Intervention Plan.

(h) The licensee shall maintain a written record of the staff training.

 (1) Documentation of the training received by each staff member shall be maintained in the personnel records, pursuant to Section 82066, and include:

 (A) Dates, hours, and description of the training completed, including name of the instructor and organization providing the training.

 (B) Written verification from the instructor that the staff member has successfully completed the required training and passed the competency test(s).

Authority cited: Sections 1530, 1530.1, 1567.64 and 1567.82, Health and Safety Code.

Reference: Sections 1180, 1180.1, 1180.3, 1180.4, 1180.5, 1501, 1531 and 1562, Health and Safety Code.

# Adopt Section 82168 to read:

## 82168 ADMISSION AGREEMENTS

(a) In addition to Section 82068, the Admission Agreement shall include a list and short description of each of the emergency interventions the licensee may use.

 (1) The program's plan regarding the use of emergency interventions shall be reviewed with and approved by the client and his/her authorized representative, if any, prior to its implementation.

 (2) The licensee shall provide a copy of the Emergency Intervention Plan to the client and their authorized representative, if any, at admission.

Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1180, 1180.4, 1501 and 1531, Health and Safety Code.

# Adopt Section 82168.2 to read:

## 82168.2 NEEDS AND SERVICES PLAN

In addition to Section 82068.2, the following shall apply:

(a) If the licensee will use or it is reasonably expected the licensee will use manual restraint or seclusion with a client when that client is an imminent danger to self or others, the licensee shall develop an Individual Emergency Intervention Plan for that client.

 (1) The Individual Emergency Intervention Plan shall be based on the assessment required by Section 82068.2(h).

 (2) The Individual Emergency Intervention Plan shall be updated as needed to ensure it meets the safety needs of clients.

 (3) The client and authorized representative, if any, shall receive a copy of and approve the Individual Emergency Intervention Plan and any modification to the Plan prior to implementation.

Authority cited: Sections 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1180, 1501, and 1531, Health and Safety Code.

# Adopt Section 82168.3 to read:

## 82168.3 MANUAL RESTRAINT OR SECLUSION REVIEW

(a) The Licensee shall ensure that a debriefing occurs in accordance with Section 1180.5(b) of the Health and Safety Code.

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 Health and Safety Code section 1180.5(b) provides in pertinent part:

 A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall, as quickly as possible but no later than 24 hours after the use of seclusion or behavioral restraints, conduct a debriefing regarding the incident with the person, and, if the person requests it, the person's family member, domestic partner, significant other, or authorized representative, if the desired third party can be present at the time of the debriefing at no cost to the facility, as well as with the staff members involved in the incident, if reasonably available, and a supervisor, to discuss how to avoid a similar incident in the future. The person's participation in the debriefing shall be voluntary. […]

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(b) The debriefing required by Section 82168.3(a) shall include:

 (1) An evaluation of whether the emergency intervention action taken by the staff was consistent with the program Emergency Intervention Plan, Individual Emergency Intervention Plan, program policies, and training.

 (A) If the use of any de-escalation technique causes an escalation of the client's behavior, the use of the technique shall be evaluated for effectiveness. De-escalation techniques that are ineffective or counter-productive shall be discontinued.

 (2) An evaluation of whether the manual restraint or seclusion was utilized only after less restrictive techniques were utilized and proven unsuccessful.

 (3) Identification of the factors that may have contributed to the incident and any alternate methods of helping the client avoid or cope with these factors.

 (4) An evaluation of whether the client was in a manual restraint and/or seclusion for the least amount of time necessary.

 (5) A discussion of circumstances and strategies for preventing future incidents.

(c) Documentation of the debriefing meeting in the client's record shall include the findings of the review, any modifications to the client's Needs and Services Plan, and any refusal by the client to participate in the review.

Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1180, 1180.1, 1180.5, 1501 and 1531, Health and Safety Code.

# Adopt Section 82169 to read:

## 82169 MEDICAL EXAMINATION

In addition to Section 82069, the following shall apply:

(a) Immediately following each manual restraint or seclusion, the administrator or administrator's designee shall have an in-person communication with the client to assess and determine whether there is a physical injury or suspected physical injury and whether a medical examination by a qualified medical professional is needed.

 (1) The decision and rationale whether to seek a medical examination shall be documented in the client's record.

(b) Any suspected physical injury or complaint of physical injury to the client, reported to or witnessed by staff during or after a manual restraint or seclusion shall be reported immediately to the administrator or administrator's designee, the licensee and the authorized representative. This shall also be included in the written incident report to the Department as specified in Section 82161(b).

 (1) Any suspected serious injury shall be reported immediately to a qualified medical professional for examination.

Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1180.4, 1501, 1507 and 1531, Health and Safety Code.

# Adopt Article 7, Section 82175 to read:

Article 7. PHYSICAL ENVIRONMENT

## 82175 SECLUSION ROOM

(a) In addition to Section 82122, a licensee at a program with a seclusion room, shall not:

 (1) Use the seclusion room for another purpose such as a bedroom, a bathroom, or for storage.

 (2) Use the seclusion room without a fire clearance allowing the use of the seclusion room from the city, county, or city and county fire department or district providing fire protection services, or the State Fire Marshal.

 (A) The request for the fire clearance for use of the seclusion room shall be made through the Department and compliance with it shall be maintained by the licensee.

 (3) Use the seclusion room without prior approval by the Department.

 (A) The licensee shall submit the following to the Department in order to receive approval from the Department for the use of the seclusion room:

 1. if applicable, Program Sketch and

 2. the staffing plan to be maintained for the use of the seclusion room.

 (4) Deprive a client placed in the seclusion room of daily living functions, as specified in Section 82072(a)(3).

 (5) Include a locking or jamming device on the door of the seclusion room.

 (A) The seclusion room door shall only be shut in a manner providing for immediate release upon removal of a staff member's foot, hand, and/or body.

 (6) Place a person with a developmental disability in seclusion, in accordance with California Code of Regulations, Title 17, Division 2, Chapter 1, Subchapter 5, Article 2, Section 50515.

 (7) Use a room or another area for a seclusion that is not identified as the seclusion room in the Plan of Operations.

(b) A control for the lighting of the seclusion room shall be located outside the room. A dimmer switch may be used if indicated in the client's Individual Emergency Intervention Plan. In order to ensure supervision of the safety of the client, in no event shall the light be completely turned off while the room is in use.

(c) A seclusion room shall be free of hazards such as objects or fixtures which can be broken or used by a client to inflict injury to self or others.

Authority cited: Section 1530 and 1530.1, Health and Safety Code.

Reference: Sections 1501, 1531, 1509 and 1531.18, Health and Safety Code.