

House Research Act Summary

CHAPTER: 234

SESSION: 2008 Regular Session

TOPIC: Children's Mental Health; Restrictive Procedures

Date: April 24, 2008

Analyst: Lynn Aves, 651-296-8079

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill sets out criteria and guidelines for the use of restrictive procedures by providers of children's mental health services. The bill adapts existing language in chapter 2960 of the Minnesota Rules regarding use of restrictive procedures by licensed children's out-of-home care providers.

Section

1 Restrictive procedures planning and reporting. Creates §245.8261.

Subd. 1. Scope. Provides that this section applies to providers of emergency services, family community support services, day treatment services, therapeutic support of foster care, professional home-based family treatment, and mental health crisis services. Requires these providers to comply with this section before using restrictive procedures with a child.

Subd. 2. Restrictive procedures plan. Requires service providers to have a written restrictive procedures plan on file and available for review. Sets out the items that must be included in the plan.

Subd. 3. Definitions. Defines the terms "commissioner," "child," "individual treatment plan," "mechanical restraints," "physical escort," "physical holding,"

“restrictive procedures,” “time out,” and “seclusion.”

Subd. 4. Allowable procedures. Permits a provider to use physical escort, physical holding, seclusion, and the limited use of mechanical restraints in emergency situations. Provides that use of restrictive procedures is allowed only by a mental health professional, or by a mental health practitioner who is acting under the clinical supervision of a mental health professional.

Subd. 5. Parental consent and notification. Requires the provider to obtain parental consent for the use of seclusion and restraint when a child begins receiving services. If restraint procedures are used, a provider must notify the child’s parent or guardian on the same day the procedure is used. This requirement can be waived if the parent or guardian notifies the provider that the parent or guardian does not want to be notified, or the parent or guardian requests a different notification schedule.

Subd. 6. Physical escort requirements. Permits physical escort to control a child who is being guided to a place where the child will be safe and to help de-escalate interactions between the child and others.

Subd. 7. Physical holding or seclusion. Permits these forms of restrictive procedures in emergency situations as a response to an imminent serious risk of physical harm to the child or others and when less restrictive interventions are ineffective to prevent escalation of behaviors. Lists specific requirements that must be met in order to use these procedures.

Subd. 8. Exempt techniques and procedures. Provides that the use of instructional techniques and intervention procedures is exempt. Such techniques and procedures include corrective feedback to prompt a child to finish a task, physical contact to encourage a child to complete a task, physical contact to redirect a child’s behavior under certain circumstances, and manual or mechanical restraint to treat a child’s medical needs or to protect a child known to be at risk of injury from a medical or psychological condition.

Subd. 9. Conditions on use of restrictive procedures. Prohibits implementation of restrictive procedures in a manner that constitutes abuse or neglect under the Maltreatment of Minors Act; that restrict the child’s normal access to food, water, adequate ventilation, medical care, hygiene facilities, clothing, or any protection required by state licensing standards and federal regulations; that deny the child visitation with legal counsel and next of kin; or as a form of punishment or for the convenience of staff.

Subd. 10. Prohibitions. Provides a list of prohibited actions and procedures.

Subd. 11. Training for staff. Mandates successful completion of these specified training components.

Subd. 12. Administrative review. Instructs the provider to complete an administrative review of each use of a restrictive procedure within three days of its use. Requires the review to be conducted by someone other than the individual who

used the restrictive procedure or that person's supervisor. Permits the child or the child's representative to participate in the review. Lists the required documentation.

Subd. 13. Review of patterns of use of restrictive procedures. Requires at least quarterly review of the provider's patterns of use of restrictive procedures by the treatment provider or the program's advisory committee. Lists considerations.

Subd. 14. Annual report. Requires a provider to submit an annual report to the commissioner stating the number and types of restrictive procedures performed. States that the department will review programs with high use of restrictive procedures to determine whether changes in policies and procedures are needed.

- 2 **Emergency room patients.** Amends §254A.19, by adding subdivision 1a. Permits a county to contract with a hospital to provide chemical use assessments for emergency room patients or patients admitted to the hospital when an assessor is not available and detoxification services in the county are at capacity.
- 3 **Financial conflicts of interest.** Amends 245A.19, subd. 3. Permits a county to contract with a hospital to conduct chemical assessments if all of the criteria in this subdivision are met and if the requirements of subdivision 1a are met.
- 4 **Provider entity administrative infrastructure requirements.** Amends § 256B.0943, subd. 5. Adds paragraph (c). States that a provider that uses restrictive procedures must comply with the requirements in section 245.8261.
- 5 **Mental health needs; work group.** Instructs the commissioner of human services to convene a work group of stakeholders to develop recommendations to reduce the number of unnecessary patient days in acute care facilities. Lists services and professions that are to be analyzed. Requires the commissioner to report the findings of the work group to the legislature by January 16, 2009; lists subjects that are to be addressed in the report.
- 6 **Substance abuse treatment effectiveness.** Requires the commissioner, in addition to the substance abuse treatment performance outcome measures reported annually, to report the number of client readmissions within six months of release from inpatient treatment and the cost of treatment per person for each program receiving CCDTF funds. Provides an effective date of January 1, 2009.