

State of Rhode Island Department of Children, Youth and Families
Child Care Regulations: Addendum A - Regulations Regarding the Use of
Crisis Intervention, Restraint and Seclusion Within Covered Residential
Facilities

Effective Date: October 1, 2001

I. Statement of Intent

- A. The Department of Children, Youth and Families (DCYF), in accordance with RIGL 42-72.9 and the Federal Children's Health Act of 2000, promulgates these regulations to be used by all residential programs licensed by the Department regarding the use of crisis intervention restraint and seclusion. It is the responsibility of each Covered Facility and/or parent agency to ensure that they adopt facility and agency specific policies which incorporate all applicable federal and state laws and regulations relative to the use of physical restraint, mechanical restraint, chemical restraint and seclusion.

The intent of these regulations is to set clear minimal standards and expectations for providers and their staff to meet in order to develop safe and therapeutic environments for children and youth in the care of the Covered Facility. These regulations are to ensure that every child and youth who is placed in a Covered Facility receives the least intrusive, most clinically appropriate intervention, which is sufficient to ensure his/her safety and promote healthy growth and development.

It is the State's belief that every child has the right to be free from the use of seclusion or restraint of any form as a means of coercion, discipline or retaliation by staff. The Department recognizes that the use of restraint and seclusion poses an inherent risk to the physical safety and psychological well-being of the involved child or youth and to the staff. Therefore, restraint and seclusion are to be used only in circumstances where a child, due to his or her current behavior, poses an imminent risk of harm to him/herself or others, including staff. Non-physical interventions are the first choice of intervention unless safety issues demand an immediate physical response.

Pursuant to these regulations, the Department intends to work with Covered Facilities in an effort to increase the proactive interventions available and used by staff in order to reduce the use of restraint and seclusion. The Department recognizes that agency leaders and program managers play an important role in creating healthy, supportive environments which minimize circumstances that give rise to restraint and seclusion use and which maximize safety when these are used. The Department also recognizes the important role of family members in the child's/youth's treatment planning and decisionmaking when appropriate. The Department intends that, with the exception of situations where the participation of family members may have a deleterious effect on the individual

child and his/her rights, Covered Facilities will develop policies and practices which increase the positive participation of family members.

- B. Pursuant to these regulations, standards are set forth and defined for:
1. approved models of crisis intervention and physical restraint training,
 2. the training of trainers within approved model(s);
 3. the use of crisis intervention and de-escalation methods;
 4. the use of physical, mechanical and chemical restraints, and the circumstances under which their use would be permissible;
 5. the use of seclusion and the circumstances under which it would be permissible;
 6. post-restraint debriefing;
 7. documentation, reporting and quality assurance; and
 8. program level sanctions for non-compliance.

II. Definitions

In addition to terms defined elsewhere in the Child Care Regulations, the following terms are defined for use in this addendum:

- A. "Covered Facility" means any agency, organization, or public or private entity that provides any of the following for children and which is granted a license by the Department of Children, Youth and Families: residential treatment, including in-house educational programming; in-patient or residential psychiatric treatment for mental illness; and group or shelter home care. The term "Covered Facility" does not include the public school system, psychiatric hospitals, or the Rhode Island Training School for Youth;
- B. "Parent Agency" means the agency or organization of which a Covered Facility is a legal subsidiary.
- C. "Nationally Recognized Training Program" means a crisis intervention and restraint training program, which at a minimum has the following attributes:
1. a clearly written curriculum which focuses on prevention and de-escalation of crisis in order to reduce the likelihood of the use of restraint;
 2. a process by which individuals involved in a restraint can effectively debrief the trauma of the event;
 3. physical restraint methods which have been reviewed by a multi-disciplinary group of professionals;
 4. a method by which individuals are required to be certified as trainers in the model and by which trainers are required to be re-certified at least once every three years;

5. a method by which the effectiveness of individual trainers are evaluated and by which such evaluations are used in determining the individual's ongoing status as a certified trainer;
 6. is developed by an organization which has the capacity to ensure quality in training and in the evaluation of the practical application of the model and which utilizes such evaluations to modify the curriculum and the restraint procedures as necessary to ensure the application of state-of-the-art principals in the non-restraint and restraint aspects of the curriculum (the Department has a responsibility to periodically assess the ability of each organization to conduct such evaluation and quality assurance); and
 7. demonstrated safe and effective utilization of the model.
- D. "Service Provider" means any person employed or contracted by a Covered Facility to provide direct care, residential treatment, education or direct supervision of children;
- E. "Program Manager" means the person who is identified as having direct responsibility for the day-to-day management of the operations of a Covered Facility;
- F. "Therapeutic Physical Restraint" (the term physical restraint is used interchangeably with this term throughout this section) means the acceptable use of a staff member's body to immobilize or reduce the free movement of a child/youth's arms, legs, torso or head in order to ensure the physical safety of a child/youth or other individual in the facility. The term does not include: (1) briefly holding a person in order to calm or comfort the person; (2) restraint involving the minimum contact necessary to safely escort the person from one area to another. This definition does not apply to interactions with individuals which are brief and focus on redirection or assistance within daily living activities, including the use of physical escorts.
- G. "Mechanical Restraint" means any approved mechanical restriction that immobilizes or reduces the free movement of a child's/youth's arms, legs, torso or head in order to hold a child/youth safely including: (1) medical devices, including, but not limited to, supports prescribed by a health care provider to achieve proper body position or balance; (2) helmets or other protective gear used to protect a person from injuries due to a fall; or (3) helmets, mitts and similar devices used to prevent self-injury when the device is part of a documented treatment plan and is the least restrictive means available to prevent such self-injury.
- H. "Life threatening physical restraint" means any physical restraint or hold on a child that restricts the flow of air into a person's lungs, whether by chest compression or any other means, or which may otherwise result in death.
- I. "Chemical restraint" means a medication used to control behavior or restrict the patient's freedom of movement and is not a standard treatment for the child's medical or psychiatric condition.

- J. "Seclusion" means the involuntary confinement of a person in a room in a Covered Facility, whether alone or with staff supervision, in a manner that prevents the person from leaving. This definition does not pertain to the use of "time out" as an acceptable form of short term behavioral management nor does it pertain to Covered Facilities where the terms of seclusion are defined pursuant to particular judicial decrees.
- K. "Time-out" means a brief separation from the group, not to exceed twenty (20) minutes, designed to de-escalate the child. During "time-out" a child's freedom of movement is not restricted and the child need not be directly supervised, but must be visually monitored. This is not intended to restrict programs from using procedures such as room restrictions or privilege restrictions which are a defined part of the program's behavior management and positive reinforcement methods.
- L. "Emergency" means any event in which a child or youth placed in a Covered Facility poses an imminent or immediate risk of harm to the physical safety of himself or other individuals.
- M. "Serious physical injury" means any injury which requires diagnostic or treatment services from a licensed medical provider and does not include injuries which can be appropriately treated through recognized first aid techniques which can be administered by a person who is not a licensed medical provider.
- N. "Monitoring" (restraint and seclusion) means (a) direct observation or (b) observation by way of video monitoring within physical proximity sufficient to provide aid as needed.
- O. "Monitoring" (time-out) means the intermittent visual observation of a resident who has been briefly separated from the group under the time-out procedure defined by RIGL 42-72.9-3(8).
- P. "Assessment" means the evaluation of the physical condition of a child/youth who is being restrained or secluded by a trained and competent staff member.
- Q. "Assistance" means the help provided by staff to individuals in meeting the behavior criteria for the prevention of restraint or seclusion or for the discontinuation of the restraint or seclusion.

III. Leadership

- A. Parent Agency and Covered Facility leaders are expected to take an active role in creating an environment that minimizes circumstances that give rise to restraint and seclusion use and that maximizes safety when they are used. This leadership includes:
 - 1. Ensuring staff understand that the use of restraint and seclusion poses an inherent risk to the physical safety and psychological well-being of the individual and staff. Therefore, restraint and seclusion are to be used only in an emergency, when there is an immediate or imminent risk that a child/youth will harm him/herself or others. Non-physical interventions

- are the first choice as an intervention, unless safety issues demand an immediate physical response.
2. Ensuring staff understand that the use of restraint and seclusion has the potential to produce serious consequences, such as physical and psychological harm, loss of dignity, violation of an individual's rights and even death and that reducing the use of restraint and seclusion is a paramount responsibility of all staff.
- B. Agency and Covered Facility leaders are expected to ensure the sufficient allocation of resources, the provision of initial and ongoing training and the integration of the use of restraint and seclusion into performance improvement activities as methods to focus on the creation of a positive environment and the reduction of the use of restraint and seclusion.
- IV. Approved Nationally Recognized Models of Crisis Intervention and Physical Restraint Training
- A. Covered Facilities are required to use only nationally recognized crisis intervention and physical restraint training programs which are approved by the Department.
 - B. The Department shall make available to Covered Facilities and other interested parties a list of approved training models no later than January 1 of each calendar year.
 1. Each Covered Facility is required to identify one model from this list to be used within the Covered Facility except as otherwise authorized by the Department.
 - a) Program Managers must ensure that all staff working within that Covered Facility are trained in this model in accordance with these regulations; and
 - b) When intervening with a physical restraint, staff must limit their use of physical restraint techniques to those taught in the training model identified to the Department as being the model used in that Covered Facility.
 2. Parent Agencies which operate more than one Covered Facility may identify a different nationally recognized training model for each Covered Facility and may provide cross-training to all Parent Agency Service Providers in each model. However, each Covered Facility is limited to utilizing one identified crisis intervention and restraint model within that Covered Facility except as otherwise authorized by the Department.
 3. Covered facilities are required to ensure that any training in crisis intervention and restraint for their staff is provided by a person(s) who is recognized as a "certified" trainer in that model by the organization which developed the model and provides the training of trainers in the model. The Covered Facility must further ensure the following:

- a) The trainer(s) has been certified or recertified as a trainer in the most current version of the model within the past three (3) years;
 - b) The trainer has at a minimum annually conducted one (1) complete training in the model for which they are certified since their last date of certification or recertification, and
 - c) The Covered Facility has on file documentation as to the certification status of every trainer they use for the teaching of crisis intervention and restraint to Service Providers.
 - d) Covered facilities are not permitted to “blend” one or more approved nationally recognized models for use by staff in the Covered Facility.
 - e) Covered facilities are not permitted to develop or use crisis intervention and restraint models which have been developed by the Covered Facility, the program’s Parent Agency or by another treatment provider unless that model is identified as an approved model by the Department.
- C. Procedures for approval of adaptations to approved nationally recognized models of crisis intervention and restraint:
- 1. Covered facilities and/or their Parent Agency may make a written request to the Director of the Department or his/her designee for the adaptation of a particular model if they believe that such adaptation is clinically necessary for the safe operation of the program and to ensure a safe environment for the children and youth served by the program. Such a request must include the following:
 - a) Identification of the extent to which the Covered Facility and/or Parent Agency has provided adequate training for staff in the identified model and has ensured that staff are effectively implementing the model;
 - b) Identification of the reasons as to why the Covered Facility and/or Parent Agency finds the interventions provided in this model to be clinically inadequate for the population served or to not provide for the development and maintenance of a safe environment;
 - c) A clear written and pictorial description of the intervention(s) to be modified or added for use in this Covered Facility;
 - d) Evidence that the Covered Facility and/or Parent Agency has discussed this alteration to the model with the organization that developed the model and provides the training of trainers in the specified model and that the organization has either agreed to the alteration or clearly identified to the Covered Facility and/or Parent Agency any concerns regarding the alteration and whether or not the organization endorses the alteration;

- e) Evidence that the Covered Facility and/or Parent Agency has developed this alteration with the participation of a multi-disciplinary group of professionals.
2. Upon receiving such a request, the Director and/or his/her designee will review the submitted material. He/She may convene a panel of experts to assist in this review and may request a demonstration of the proposed technique. The Director will provide a written decision to the Covered Facility and/or Parent Agency within sixty (60) business days of the receipt of the written request.
- D. Addition/Deletion of crisis intervention and restraint models from the approved list of nationally recognized training models.
1. Parent Agencies and/or Covered Facilities may submit to the Department recommendations for nationally recognized crisis intervention and physical restraint training models to be added to the list of approved models.
- Such submissions must be in writing and at a minimum must include the following:
- a) Copy of the curriculum for the recommended model, including any audiovisual material available for use by trainers;
 - b) Contact information for the organization which developed the model and provides the training of trainers for the specified model.
2. The Department shall review all submitted requests on an annual basis and may convene a panel of experts to assist in this review. Training models which are approved shall be added to the next edition of the list of approved nationally recognized training models.
 3. The Department retains the right to add or remove nationally recognized training models from the list of approved models at any time.
 - a) When moving to remove a training model from the approved list, the Department shall notify providers of this decision at least one hundred and twenty days (120) in advance of the removal, unless the Department identifies the need for removal as an emergency situation.
 - b) When removing a training model from the approved list, the Department shall work with the Covered Facilities and/or Parent Agencies which are directly affected in helping them to transition to another training model from the approved list.
 4. Parent agencies and/or Covered Facilities are required to report to the Department any changes to the approved model that they utilize which are made by the organization which certifies trainers in that model. Such

notification must take place with thirty (30) days of the receipt of the changes by the Parent Agency and/or Covered Facility.

- E. The Department has the responsibility to periodically assess the ability of each organization which has an approved training model to conduct evaluation and quality assurance assessments on the model which are used to improve the model's effectiveness.
- F. Nothing in this section is intended to preclude Parent Agencies and Covered Facilities from using state-of-the-art prevention and intervention methods which are focused on avoiding the use of any type of restraint or seclusion which may be in addition to methods taught in the Covered Facilities approved curriculum. Any special approvals required in this section pertain to the addition of methods of physical restraint which are not a part of the Covered Facilities approved curriculum.

V. Training and Supervision

- A. In addition to any training, supervision and evaluation requirements set forth elsewhere in these Child Care Regulations, each Covered Facility and/or Parent Agency must meet the requirements set forth in this section relative to orientation, training and supervision and requirements pertaining to the use of crisis intervention and restraint.

B. Training:

1. New Service Providers

- a) Each Covered Facility must ensure that every new Service Provider successfully completes the training prescribed below in regard to crisis intervention and restraint prior to that Service Provider being authorized to be solely responsible for any child or children in the care of the Covered Facility. Covered Facilities and/or Parent Agencies must also ensure that all new Service Providers are given the opportunity to complete such training within thirty (30) days from their date of hire. The required new Service Provider training includes, but is not limited to:

- (1) A minimum of sixteen (16) hours of training in the Covered Facility's approved crisis intervention and restraint model or the prescribed number of minimum hours identified within the model, whichever is greater.

- (a) Such training shall include role-playing in de-escalation, demonstration by the Service Provider of each hold and self-protection method taught, and written pre-training and post-training tests.

- (b) Successful completion of this training must be verified by a written sign-off from the trainer stating that the Service Provider has successfully

completed the training program and that he/she can competently implement the components of the training program. A copy of this documentation shall be kept in the Service Provider's personnel file.

- (2) When not included as a part of the Covered Facility's approved crisis intervention and restraint training model, each Service Provider shall also successfully complete training in the following:
 - (a) Avoidance of power struggles;
 - (b) Aggressive behavior related to a medical condition;
 - (c) Physiological impact of restraint;
 - (d) Monitoring physical signs of distress and obtaining medical assistance;
 - (e) Legal issues;
 - (f) Positional asphyxia;
 - (g) Self protection techniques;
 - (h) Process for obtaining approval for continued restraint;
 - (i) Documentation;
 - (j) Investigation of injuries and complaints.
2. Annual Training: Each Covered Facility and/or Parent Agency shall ensure that all staff, on a minimum of an annual basis, receive a minimum of eight (8) hours of refresher training in the Covered Facility's approved crisis intervention and restraint model or the prescribed number of minimum hours of refresher training identified within the model, whichever is greater.
 - a) Such training shall include role-playing in de-escalation, demonstration by the Service Provider of each hold and self-protection method taught, and written pre-training and post-training tests.
 - b) Successful completion of this training must be verified by a written sign-off from the trainer stating that the Service Provider has successfully completed the training program and that he/she can competently implement the components of the training program. A copy of this documentation shall be kept in the Service Provider's personnel file.
3. It is the responsibility of the Covered Facility and/or Parent Agency to ensure that any and all Relief Staff utilized by the Covered Facility who

may not be regular employees of the Covered Facility and/or Parent Agency have successfully completed the same training required of the regular Service Providers for the Covered Facility and/or Parent Agency.

4. No employee or Relief Staff member for the Covered Facility shall participate in a restraint if they have not successfully completed the required training in crisis intervention and restraint.

C. Supervision:

1. Each Covered Facility and/or Parent Agency shall ensure that the use of crisis intervention and restraint is routinely addressed in individual and/or group supervision with all Service Providers and clinical staff. Such supervision shall focus on analyzing individual interventions as well as patterns of intervention to identify ways to increase the effective use of prevention methods and further reduce the use of restraint within the Covered Facility.
2. Each Covered Facility and/or Parent Agency shall ensure that every Service Provider's annual performance evaluation include an evaluation of the Service Provider's use of crisis intervention and restraint.

VI. Use of Restraint, Seclusion, Time Out and Behavioral Modification

A. Covered facilities must develop written policies and procedures regarding their focus on creating a positive environment to reduce the use of restraint or seclusion and must submit these to the Department for review and approval.

1. These policies must promote optimal resident functioning in a safe and therapeutic manner and must minimize the adverse consequences of the use of restraint or seclusion.
2. These policies must minimally address trainer certification, staff training, alternative intervention strategies, de-escalation techniques, internal and external reporting requirements including the obtaining of informed consent relative to the use of restraint from the child/youth's parent/guardian, data collection and use of data for quality assurance purposes.
3. Each Covered Facility is expected to have a process for regular review and, as appropriate, modification of these policies.
4. Each Covered Facility must ensure that all Service Providers thoroughly review and understand these policies and procedures. Documentation that these policies and procedures have been reviewed with each Service Provider by a staff member in a supervisory position must be included in each Service Provider's personnel file. Such review and documentation shall occur within thirty (30) days of hire and annually thereafter.

B. Covered facilities are not permitted to use seclusion or restraint as a means of coercion, discipline, convenience or retaliation by staff.

- C. Covered facilities are not permitted to use restraint or seclusion as substitutes for direct care, activities or other services.
- D. No child/youth may be restrained solely for non-compliance with a program rule, staff directive or other expectation.
- E. In accordance with RIGL 42-72.9-4(C)(8), restraints may not be written as a standing order or on an “as needed” (PRN) basis.
- F. The physical condition of a child/youth must be assessed throughout the duration of the incident. Such assessment may be conducted by a service provider who is directly involved in the restraint or seclusion but only if it is not practicable for another staff person to perform this duty.
- G. Unless otherwise prescribed elsewhere in these regulations or applicable state laws and/or Federal laws or regulations, the Covered Facility and/or Parent Agency shall ensure that a supervisory or senior staff person with training in crisis intervention, restraint and seclusion who is competent to conduct a face-to-face assessment will assess the mental and physical well-being of a child/youth being restrained or secluded and assure that the restraint or seclusion is being conducted in a safe manner and in accordance with the Covered Facility’s crisis intervention and restraint policies and procedures.
 - 1. Such an assessment shall take place as soon as is practicable, but in no case later than one (1) hour after the initiation of the restraint or seclusion, and
 - 2. A supervisory or senior staff person shall continue to monitor the situation by minimally conducting follow-up face-to-face assessments every fifteen (15) minutes for the duration of the restraint or seclusion.
- H. The Covered Facility must ensure that all children/youth directly and indirectly involved in a restraint or seclusion are provided the opportunity to debrief the incident as soon as practicable but no longer than within twenty-four (24) hours of the incident.
- I. The use of restraint, seclusion or time out must not unduly hinder the evacuation of the resident in the case of a fire or other facility emergency.
- J. Use of Therapeutic Physical Restraint
 - 1. Unless the Covered Facility obtains a variance prior to implementation, the use of any form of restraint other than physical restraint is prohibited.
 - 2. Therapeutic Physical Restraint of a child/youth may be used only when each of the following criteria are met:
 - a) In emergency circumstances where a child/youth is demonstrating by his/her actions that he/she is at immediate or imminent risk of physically harming him/herself or others; and
 - b) Less restrictive interventions have not succeeded in de-escalating the situation.

3. It is the responsibility of the Program Manager for the Covered Facility, and the Covered Facility's Parent Agency, to ensure the following:
 - a) That all Service Providers who may be engaged in physically escorting or physically restraining a child/youth in their care have received the appropriate training, as outlined elsewhere in this section, in the Covered Facility's crisis intervention and restraint model prior to being required to physically escort or physically restrain a child/youth in their care;
 - b) Pursuant to RIGL 42-72.9-4(A), no Service Provider may use a life threatening physical restraint on any child at any time. In addition, other procedures that are expressly prohibited include any restraint procedure which involve choke holds, headlocks, full nelsons, half-nelsons, hog-tying or the use of pressure points to inflict pain;
 - c) The use of physical restraint is viewed by staff as an intervention of last resort to be imposed only in emergency circumstances to prevent immediate or imminent risk of harm to the physical safety of the child or other individuals in the facility. The staff member(s) involved in the restraint must be able to show that less restrictive interventions were attempted to de-escalate the child/youth with limited or no success in maintaining safety.
 - d) In accordance with the procedures relative to the termination of a restraint and debriefing outlined in the crisis intervention and restraint training program used by the Covered Facility, physical restraints are removed at the earliest possible time that the child can commit to safety and no longer poses a threat to him/herself or others.
4. For those Covered Facilities which also contain a school program and in accordance with RIGL 42-72.9-4(C)(4), that, except in emergency situations as defined by these regulations, the use of restraint in the school program be done in accordance with the child's Individual Educational Plan (IEP).

K. Use of Mechanical Restraint

1. The use of mechanical restraint is considered by the Department to be a more restrictive intervention than the use of physical restraint.
2. The use of mechanical restraint is authorized in accordance with RIGL 42-72.9-4(C)(2) and is limited to those Covered Facilities which have received the express approval from the Department for the use of mechanical restraints pursuant to statute. Such use will be limited to those devices defined in RIGL 42-72.9-4(C)(2) that are devices specifically designed for the restraint of humans for conducting medical procedures and only when the use of mechanical restraint and the circumstances and conditions of such use is identified within the child/youth's treatment

plan. No Covered Facility shall be granted authority to use any type of handcuffs or leg irons.

- a) Such Covered Facilities must develop policies and procedures regarding the use of mechanical restraint and submit those to the Department for review and approval.
- b) Covered Facilities authorized to use mechanical restraints shall ensure that such restraints are used only when each of the following criteria are met:
 - (1) In emergency circumstances where a child/youth is demonstrating by his/her actions that he/she is at immediate or imminent risk of physically harming him/herself or others; and
 - (2) The use of less restrictive interventions have been attempted and documentation exists that such interventions were not successful.
 - (3) The use of mechanical restraint has been ordered in writing by a physician and is administered in accordance with the standards adopted by a Medicaid-approved accrediting agency or commission.
 - (4) The application of the mechanical restraint apparatus is done by service providers who, by way of documentation existing in their personnel files, are trained and certified in the use of the restraint apparatus, alternatives to the use of such apparatus, methods of preventing the use of such apparatus and any potential medical complications which could arise from the use of such apparatus.
 - (5) In circumstances where a mechanical restraint is used with a child/youth, the Covered Facility and/or Parent Agency must ensure that a face-to-face assessment is conducted by a licensed practitioner within one (1) hour of the commencement of the mechanical restraint.

3. The Department reserves the right to deny and/or withdraw any Covered Facility's authorization for use of mechanical restraints.
4. Nothing within these regulations is intended to limit the use of mechanical restraint for medically necessary procedures associated with acute medical or surgical care or with standard medical practices that include limitation of mobility or temporary immobilization related to medical, dental, diagnostic or surgical procedures and the related post-procedure care (for example, surgical positioning, IV arm boards, radiotherapy procedures, protection of surgical and treatment sites in pediatric patients).

L. Use of Chemical Restraint

1. The use of chemical restraint is considered by the Department to be a more restrictive intervention than the use of physical restraint, seclusion and/or mechanical restraint.
 2. In accordance with RIGL 42-72.9-4(C)(6) and the Federal Children's Health Act of 2000, the use of chemical restraint is authorized in accordance with RIGL 42-72.9-4(C)(6) and is limited to those Covered Facility's which have received the express approval from the Department for the use of chemical restraint pursuant to statute. The use of chemical restraint may be authorized only when such use and the circumstances and conditions of such use is identified within the child/youth's treatment plan.
 - a) Such Covered Facilities must develop policies and procedures regarding the use of chemical restraint and submit those to the Department for review and approval.
 - b) Covered Facilities authorized to use chemical restraints shall ensure that such restraints are used only when each of the following criteria are met:
 - (1) In emergency circumstances where a child/youth is demonstrating by his/her actions that he/she is at immediate or imminent risk of physically harming him/herself or others; and
 - (2) The use of less restrictive interventions have been attempted and documentation exists that such interventions were not successful.
 - (3) The use of chemical restraint has been ordered in writing by a physician and is administered in accordance with the standards adopted by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).
 3. The person administering and monitoring the use of the chemical restraint is an appropriately licensed practitioner who is duly trained in the administration of such medication.
 4. The Department reserves the right to deny and/or withdraw any Covered Facility's authorization for use of chemical restraints.
- M. Use of Seclusion
1. In accordance with RIGL 42-72.9-5 (A)(2), the simultaneous use of seclusion and mechanical or chemical restraint is prohibited.
 2. Nothing in this section shall be construed to limit the use of "time-out" as defined elsewhere in these regulations and RIGL 42-72.9-3(8).

3. The use of seclusion is limited to those Covered Facility's which have received written authorization from the Department for the use of such an intervention.
 - a) Such programs must develop policies and procedures, including their rationale for using seclusion, regarding the use of seclusion and submit those to the Department for review and approval.
 - b) In accordance with RIGL 42-72.9-5, the Federal Children's Health Act of 2000 and these regulations, no service provider may cause the involuntary placement of a child/youth in seclusion unless each of the following conditions are met:
 - (1) The Covered Facility in which they are employed is authorized by the Department to use seclusion with clients; and
 - (2) Documentation exists in the Service Provider's personnel file certifying that the Service Provider has been trained in the use of restraint and seclusion, alternatives to use of such interventions, methods of preventing use of such interventions and any potential medical complications which could arise from the use of such seclusion.
 - (3) An emergency circumstance exists whereby a child/youth is demonstrating by his/her actions that he/she is at immediate or imminent risk of physically harming him/herself or others;
 - (4) The use of less restrictive interventions have been attempted and documentation exists that such interventions were not successful; and
 - (5) The room used for the purposes of seclusion meets the following criteria:
 - (a) The entrance to the room is unlocked;
 - (b) The room is lighted and well-ventilated;
 - (c) The room is at a minimum fifty(50) square feet in area; and
 - (d) The room contains an observation window the dimensions of which permit a child/youth to be in view regardless of where she/he is positioned in the room.
 - c) The condition of the child/youth in seclusion must be continually assessed, monitored and re-evaluated and the seclusion must be ended at the earliest possible time, considering the physical safety of the child being secluded and other individuals in the facility.

4. The Department reserves the right to deny and/or withdraw any Covered Facility's authorization for use of seclusion.

N. Use of Time-Out

1. Covered Facilities are permitted to use "time-out", as defined in these regulations, for purposes of prevention of crises and behavior management.
2. Any child/youth who is placed in "time out" must be in a location which can be visually monitored by a service provider. The distance from the closest service provider to the child/youth who is in "time-out" may vary according to factors such as age, developmental level and potential for stimuli from others but, at no point shall the child/youth who is in "time-out" be outside of the direct line of vision or reasonable speaking distance of the closest service provider.
3. Nothing in these regulations shall be construed to limit the use of procedures such as room restrictions or privilege restrictions which are a defined part of the program's behavior management and positive reinforcement methods.

O. Use of Behavior Modification Procedures

1. Nothing in these regulations shall be construed to limit the use of Behavior Modification Procedures which are a part of a Covered Facility's Behavior Modification Program provided such program is principally focused on positive reinforcement and is approved by the Department.
2. The use of aversive techniques within the context of behavioral treatment interventions is prohibited. Aversive techniques include, but are not limited to the following:
 - a) Noxious, painful, intrusive stimuli or activities that result in pain;
 - b) Any form of noxious, painful or intrusive spray or inhalant;
 - c) Electric shock;
 - d) Water spray to the face
 - e) Pinches and deep muscle squeezes;
 - f) Shouting, screaming or attempting to verbally frighten or threaten or the use of obscene language
 - g) Withholding adequate sleep;
 - h) Withholding adequate shelter or bedding;
 - i) Withholding bathroom facilities;
 - j) Withholding meals, essential nutrition or hydration;
 - k) Facial or auditory screening devices; and

- l) Use of chemical restraints except under conditions described elsewhere in these regulations.

VII. Documentation, Reporting and Quality Assurance

- A. Each Covered Facility shall develop and adopt policies and procedures that establish monitoring, documentation, reporting and internal review of the use of restraint and seclusion. These policies must minimally address the requirements for the training and supervision of Service Providers regarding the use of restraint and seclusion, documentation, procedures for the reporting of incidents to the Department and quality assurance outlined in these regulations. Such policies must also address procedures for the notification of incidents to parent(s)/guardian(s)
- B. Each Covered Facility must ensure that these policies and procedures are thoroughly reviewed with each Service Provider during their initial thirty (30) days of employment. Documentation that such a review has occurred is to be placed in each Service Provider's employee file with that person's signature affirming that they have reviewed and understand these policies and procedures.
- C. Documentation:
 1. In accordance with RIGL 42-72.9-6, any use of physical, mechanical or chemical restraint or seclusion must be documented using an Incident Report (IR) and must be documented in a progress note in the child's medical, educational, treatment or case record maintained by the covered facility.
 - a) Progress notes may more generally describe the incident provided that the note references the specific IR on which the details of the incident are clearly identified. Otherwise the progress note must contain the same level of detail of the incident as is described below for IR documentation.
 - b) All IR's shall include the following information:
 - (1) Date, day of the week, time of day and the activity in which the child/youth was involved at the time of the incident;
 - (2) The following information on all children/youth who were restrained during the incident:
 - (a) Name
 - (b) Date of Birth
 - (c) Admission Date
 - (3) Name and contact information for any other persons who may have been directly involved in or witnesses to the incident provided those persons are identifiable to the Covered Facility and willing to provide such information;

- (4) A sequential identification of the antecedents to the incident, including attempts by service providers to prevent and de-escalate the situation prior to choosing to restrain or seclude the child/youth;
 - (5) In the case of those Covered Facilities who have been granted permission to use mechanical or chemical restraint or seclusion, a description of the use of all less restrictive interventions, including other forms of restraint, or reasons why such interventions were deemed to be unlikely to be successful with this particular child/youth in this situation;
 - (6) A detailed description of the nature of the restraint and its duration, including documentation that the required monitoring and assessment of the child/youth has been completed in accordance with these regulations;
 - (7) A brief description of the debriefing of the restraint with the child/youth involved;
 - (8) A description of any injuries and/or death occurring due to or resulting during the restraint and all emergency and medical interventions on the part of staff and qualified medical providers to address these;
 - (9) A description of the effect, if any, on the child's established medical, educational or treatment plan (i.e., changes in treatment plan, medication adjustment, change in placement, etc.);
 - (10) A place where the service provider completing the form can print their name and title and a signature/date line for said service provider.
 - (11) Places for supervisory and administrative signatures, including space for the printing of the supervisor's/administrator's name, title and the date of their review of the IR.
- c) All IR's are to be completed as soon as practicable, preferably by the service provider who was most directly involved in the incident. However, in no circumstances shall the IR be completed later than the end of the shift in which the incident of restraint or seclusion took place.

D. Reporting Requirements

1. Nothing in this section affects the statutory requirements of service providers and/or Covered Facilities to report incidents of possible abuse or neglect resulting from an incident of restraint or seclusion or any other

- statutory reporting requirements. All reporting requirements in this section are in addition to such statutory requirements.
2. Unless noted otherwise in these regulations, the Covered Facility shall, on a monthly basis, forward to the DCYF Program Monitor for that Covered Facility copies of all Incident Reports involving the use of restraint or seclusion. Said reports must be received by the Program Monitor no later than the 5th business day of the month for reports for the preceding month.
 3. Incidents Requiring Immediate Notification to the Department
 - a) The Covered Facility's Program Manager, or his/her superior, shall immediately report directly to the Director of the Department or his/her designee any use of restraint or seclusion which results in the serious physical injury of a child as defined in these regulations, or the death of a child.
 - b) The Director of the Department or his/her designee shall, upon receiving and verifying such report, immediately forward to the Office of the Child Advocate any incidence of restraint or seclusion which results in the serious physical injury or death of a child.
 4. Urgent Need for Notification: Each Covered Facility shall, within 24 hours of the conclusion of a restraint or seclusion (or by the beginning of the next business day, whichever comes first), report to the child/youth's social caseworker or probation officer any incident of restraint or seclusion which results in injury to any person, provided said injury does not fall under the immediate procedures defined above for incidents resulting in the serious physical injury or death of a child/youth, or allegations of abuse.
 5. Facility Logs and Annual Compilation of Data
 - a) Weekly Log: Each Covered Facility shall maintain a separate weekly log regarding the use of physical, mechanical or chemical restraint or seclusion on a child in their care and the nature of the emergency that necessitated its use. Such logs must minimally contain the same information required on the IR and may be made up of copies of the IRs for that week.
 - b) Annual Compilation of Restraint and Seclusion Data
 - (1) No later than the first (1st) Monday of February of each year, each Covered Facility shall report to the Director of the Department an aggregate compilation of the incidents of restraint and seclusion within that program during the previous calendar year.
 - (2) This annual report shall include the following aggregated categories for the reporting year:

- (a) Total number of children/youth served by the Covered Facility;
 - (b) Total number of children/youth who were restrained and secluded;
 - (c) Total number of incidents of physical restraint with the average duration for all physical restraints and broken out by gender, race and age of child/youth;
 - (d) If applicable, the total number of incidents of mechanical restraint, broken down by type of mechanical device used, with the average duration of all mechanical restraints and broken out by gender, race and age of child/youth;
 - (e) If applicable, the total number of incidents of chemical restraint with the average duration of all mechanical restraints and broken out by gender, race and age of child/youth;
 - (f) If applicable, the total number of incidents of seclusion with the average duration of all seclusion incidents and broken out by gender, race and age of child/youth;
 - (g) A description of how this data was used throughout the reporting year to identify trends with staff, both individually and as a group, and residents, both individually and as a group, in order to reduce the use of restraint and seclusion within the Covered Facility.
- (3) Covered Facilities may include in this report any other descriptive information which they believe is important to understanding the data presented.
 - (4) Pursuant to RIGL 42-72.9-6(B)(2), the annual report of each Covered Facility shall be a public record and therefore Covered Facilities shall not include in it information which can identify specific children/youth, staff or others.
 - (5) This annual report shall be signed by the Program Manager for the Covered Facility and the chief executive of the Parent Agency.

E. Quality Assurance

1. Each Covered Facility shall develop methods by which the use of restraint and seclusion is monitored and internally reviewed to identify patterns and practices of service providers as a group or as individuals. Such methods shall include mechanisms by which data acquired by these reviews will be

used to positively affect practices within the Covered Facility and within individual service providers.

2. The Director of the Department reserves the right to develop and institute a committee which, in addition to other duties, would serve to review the use of restraint and seclusion within all Covered Facilities and make recommendations to him/her regarding any changes to regulations, policies or practices within the Department, within all Covered Facilities or within individual Covered Facilities. This Committee may include representatives of the Department, representatives of other state agencies, representatives of Covered Facilities, parents of youth involved or previously in the system of care, youth involved or previously involved in the system of care and other individuals deemed necessary by the Director.

VIII. Penalties for Covered Facilities Due to Non-Compliance

- A. In accordance with RIGL 42-72.9-8, any Covered Facility that does not comply with the provisions of the statute and, by extension, these regulations, shall be subject to licensing action by the Department which may include license revocation.
- B. Any Covered Facility upon which the Department imposes a licensing action is entitled to utilize the Department's Administrative Appeals Process and any other legal remedies granted by State or Federal Statutes to appeal the decision of the Department.