



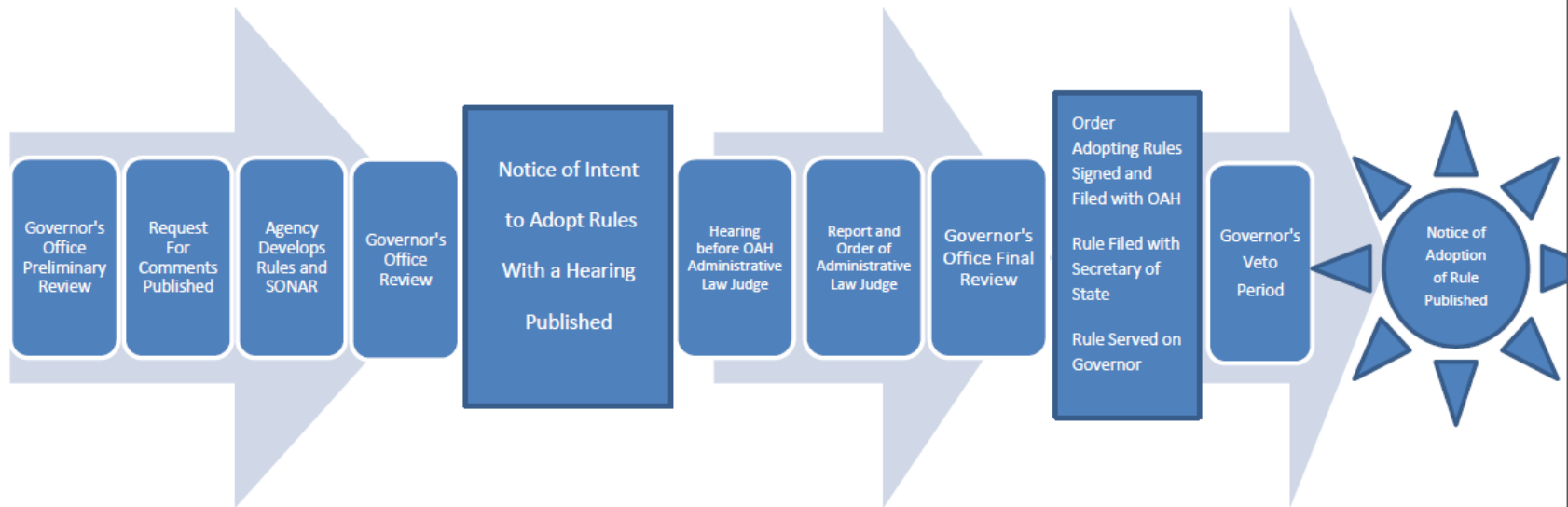
# Positive Support Rule

Public Input Sessions

Questions and comments:

[dhsrulecomments@state.mn.us](mailto:dhsrulecomments@state.mn.us)

# Minnesota Rulemaking Steps for Rule Adopted With a Hearing



# Summary of Rule Requirements

- Service Delivery
  - Positive support strategies
  - Use of person-centered planning
  - Prohibitions on use of discipline/restraint/punishment
- Assessment & Planning
- Staff Training
- Reporting

# Scope – M.S. 245.8251

## **Subdivision 1. Rules governing the use of positive support strategies and restrictive interventions**

The commissioner of human services shall, by August 31, 2015, adopt rules to govern the use of positive support strategies, ensure the applicability of chapter 245D prohibitions and limits on emergency use of manual restraint and on the use of restrictive interventions to facilities and services governed by the rules. The rules apply to all facilities and services licensed under chapter 245D, and all licensed facilities and licensed services serving persons with a developmental disability or related condition. For the purposes of this section, "developmental disability or related condition" has the meaning given in [Minnesota Rules, part 9525.0016](#), subpart 2, items A to E.

# Organization of the Rule

9544.0000 PURPOSE.

9544.0010 APPLICABILITY

9544.0020 DEFINITIONS.

9544.0030 POSITIVE SUPPORT STRATEGIES AND PERSON-CENTERED PLANNING

9544.0040 FUNCTIONAL BEHAVIOR ASSESSMENT.

9544.0050 PERMITTED PROCEDURES.

9544.0060 PROHIBITIONS AND RESTRICTIONS.

9544.0070 EMERGENCY USE OF MANUAL RESTRAINT.

9544.0080 INFORMED CONSENT.

9544.0090 STAFF QUALIFICATIONS AND TRAINING.

9544.0100 DOCUMENTATION AND RECORD REQUIREMENTS.

9544.0110 REPORTING USE OF RESTRICTIVE INTERVENTIONS AND INCIDENTS.

9544.0120 QUALITY ASSURANCE AND PROGRAM IMPROVEMENT

9544.0130 EXTERNAL PROGRAM REVIEW COMMITTEE.

9544.0140 VARIANCES.

9544.0150 EFFECTIVE DATES.

9544.0160 REPEALER.

## 9544.0000 Purpose

Chapter 9544 establishes methods, procedures and standards to be used by providers governed by this chapter for the use of positive support strategies with persons receiving services. The purpose of these rules is to improve the quality of life of persons receiving home and community based services or other licensed services by:

## 9544.0000 Purpose (II)

- A. promoting community participation, person-centeredness, and an approach that focuses on supporting persons receiving services in the most integrated setting;
- B. focusing on creating quality environments and lifestyles as primary responsibilities of license holders; ensuring collaborative, team-based development of positive support strategies;
- C. providing training to the person who receives services to improve the person's skills and facilitate the person's ability to meet self-identified goals;

## 9544.0000 Purpose (III)

- D. increasing the person's self-determination abilities so the person may engage in community activity to the greatest degree reasonably attainable;
- E. developing specific support programs that promote outcomes valued by the person, the person's family and the community to help the person receiving services improve the person's quality of life;
- F. ensuring people are free from humiliating and demeaning procedures;

## 9544.0000 Purpose (IV)

- G. eliminating all uses of aversive or deprivation procedures;
- H. creating a consistent set of standards for license holders to respond to behavior when serving people across licensed services and settings; and
- I. building staff knowledge and competence throughout a license holder's organization about the development and implementation of positive behavioral supports, person-centered planning, and community integration.

# 9544.0010 Applicability

- Identifies scope
- Related laws

# 9544.0020 Definitions

## Behavior Intervention Report Form

Subp. 3. **Behavior intervention report form.**

“Behavior intervention report form” means the form prescribed by the commissioner to collect data in accordance with the requirements in Minnesota Statutes 245.8251, subdivision 2.

## Emergency use of manual restraint

### **Subd. 8a. Emergency use of manual restraint.**

"Emergency use of manual restraint" means using a manual restraint when a person poses an imminent risk of physical harm to self or others and is the least restrictive intervention that would achieve safety. Property damage, verbal aggression, or a person's refusal to receive or participate in treatment or programming on their own do not constitute an emergency.

# Positive Support Strategy

Subp. 34. **Positive support strategy.** “Positive support strategy” means a strengths-based strategy based on an individualized assessment that emphasizes teaching a person productive and self-determined skills or alternative strategies and behaviors without the use of restrictive interventions.

# Punishment

Subp. 38. **Punishment.** “Punishment” means the use of a procedure to reduce or stop a target behavior. Items A and B describe two types of punishment.

A. Type I punishment means decreasing the rate or future likelihood of a target behavior by applying an aversive stimulus or event. Type I punishment includes overcorrection techniques.

B. Type II punishment means decreasing the rate or future likelihood of a target behavior by removing a positive reinforcer.

# Qualified Professional

- Defined separately for each service
- Conduct the FBA

# Quality of Life Indicator

Subp. 40. **Quality of life indicator.** “Quality of life indicator” means a reportable or observable outcome that is measurable and important to the person. Quality of life indicators are used to assess beneficial changes desired by the person that enrich the person’s life experiences.

# 9544.0030 Positive Support Strategies and Person-Centered Planning

- Requirements
- Standards
- Person-centered principles
- Professional standards

# 9544.0040 Functional Behavior Assessment

- Currently under development
- Definition
- Conducted by Qualified Professional

## 9544.0050 Permitted Procedures

- Incorporates 245D.06, subd. 7, Permitted Actions and Procedures
- Identifies additional permitted procedures

# 9544.0060 Prohibited Procedures

- Incorporates 245D.06:
  - Subd. 5, prohibited procedures, and
  - Subd. 6, restricted procedures
- Identifies additional prohibited procedures

# 9544.0070 Emergency Use of Manual Restraint

- Incorporates 245D.061
  - Standards and conditions for use
  - Restrictions
  - Monitoring
  - Reporting
  - Internal review
  - Expanded support team review
  - External review & reporting
  - Policies and procedures

# 9544.0080 Informed Consent

- When required
- Who can provide it

# 9544.0090 Staff Qualifications and Training

- Core staff training
- Tiered staff training
- How to determine competency

# 9544.0100 Documentation and Record Requirements

- Documentation of positive support strategies
- Exemption
- Documentation of outcomes
- Record keeping

# 9544.0110 Reporting

- Emergency Use of Manual Restraint (EUMR)
- Behavior Intervention Report Form

# Behavior Intervention Report Form

DHS Form-5148

# Behavior Intervention Report Form purposes

- Data elements
  - 245.8251
  - 256B.4912, subdivision 8
- Emergency Use of Manual Restraint - 245D.061 subd. 8
- Monitor form – 245D.061, subd. 4
- Reporting under 9544

# 9544.0120 Quality Assurance and Program Improvement

- Requirements for assessing ongoing implementation

# 9544.0130 External Program Review Committee

- Membership & Appointment
- Duties
- Incorporates requirements of 245D.06, sub. 8

9544.0150 Effective Dates  
&  
9544.0160 Repealer

# Training/Technical Assistance

## Positive Support Community of Practice

- Bi-weekly meeting
- Livestream – available via web
- Agenda:
  - Discuss relevant topic with experts
  - Provide TA to teams via call-in/email
  - Highlight success stories

# Previous PSCoP Topics

- Jan 7: Positive Support Transition Plan Intro  
Crisis Planning; Jason Hoffrogge, Orion Assoc
- Jan 21: 245D Requirements  
Walk-through of the PSTP
- Feb 4: CSSP Addendum and Individual Abuse Prevention Plans; DHS  
PSTP Manual; Barb Kleist and Joe Timmons, U of M
- Feb 18: Applied Behavior Analysis, Functional Behavior Assessments &  
Positive Behavior Support; Dr. Tim Moore, DHS
- Mar 18: Guardianship, Substitute Decision Making & 245D  
College of Direct Support Offerings; Nancy McCulloh, U of M
- April 1: Intro to DHS Community Capacity Team  
Overview of PSTP Review Form & Standards  
Intro to single case designs
- April 15: Heather Forbes; Beyond Consequences

## Previous PSCoP Topics (II)

- April 29: Developmental Repair; Dr. Anne Gearity
- June 10<sup>th</sup>: 2014 Legislative Updates
- July 22: Introduction to Person-Centered Planning;  
Dr. Carol Blessing, Cornell University
- Aug 5: Mental Health Crisis Response Services in  
Minnesota
- Aug 19: Including the Community in Community  
Integration; Dr. Angela Amado
- Sept 16: Valued Community Member Roles;  
Dr. Angela Amado
- Sept 30: **Review of Positive Supports Rule**