

**9525.2710 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 9525.2700 to 9525.2810 have the meanings given to them in this part.

Subp. 2. **Adaptive behavior.** "Adaptive behavior" means a behavior that increases a person's capability for functioning independently in activities of daily living.

Subp. 3. **Advocate.** "Advocate" means an individual who has been authorized, in a written statement signed by the person with a developmental disability or by that person's legal representative, to speak on the person's behalf and help the person understand and make informed choices regarding identification of needs and choices of services and supports.

Subp. 4. **Aversive procedure.** "Aversive procedure" means the planned application of an aversive stimulus (1) contingent upon the occurrence of a behavior identified in the individual program plan for reduction or elimination; or (2) in an emergency situation governed by part 9525.2770.

Subp. 5. **Aversive stimulus.** "Aversive stimulus" means an object, event, or situation that is presented immediately following a target behavior in an attempt to suppress that behavior. Typically, an aversive stimulus is unpleasant and penalizes or confines.

Subp. 6. **Baseline measurement.** "Baseline measurement" means the frequency, intensity, duration, or other quantification of a behavior. The baseline measurement is determined before initiating or changing an intervention procedure to modify that behavior.

Subp. 7. **Case manager.** "Case manager" means the individual designated by the county board under parts 9525.0004 to 9525.0036 to provide case management.

Subp. 8. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's designated representative.

Subp. 9. **Controlled procedure.** "Controlled procedure" means an aversive or deprivation procedure that is permitted by parts 9525.2700 to 9525.2810 and is implemented under the standards established by those parts. Controlled procedures are listed in part 9525.2740.

Subp. 10. **Nonresidential program.** "Nonresidential program" means a nonresidential program as defined in Minnesota Statutes, section 245A.02, subdivision 10.

Subp. 11. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 12. **Deprivation procedure.** "Deprivation procedure" means the removal of a positive reinforcer following a response resulting in, or intended to result in, a decrease in the frequency, duration, or intensity of that response. Often times the positive reinforcer

available is goods, services, or activities to which the person is normally entitled. The removal is often in the form of a delay or postponement of the positive reinforcer.

Subp. 13. **Emergency use.** "Emergency use" means using a controlled procedure without first meeting the requirements in parts 9525.2750, 9525.2760, and 9525.2780 when it can be documented under part 9525.2770 that immediate intervention is necessary to protect a person or other individuals from physical injury or to prevent severe property damage which is an immediate threat to the physical safety of the person or others.

Subp. 14. [Repealed, 18 SR 1141]

Subp. 14a. **Expanded interdisciplinary team.** "Expanded interdisciplinary team" means a team composed of the case manager; the person with a developmental disability; the person's legal representative and advocate, if any; representatives of providers of residential, day training and habilitation, and support services identified in the person's individual service plan; a health professional, if the person with a developmental disability has overriding medical needs; and a qualified developmental disability professional. The qualified developmental disability professional must have at least one year of direct experience in assessing, planning, implementing, and monitoring a plan that includes a behavior-intervention program.

Subp. 15. **Faradic shock.** "Faradic shock" means the application of electric current to a person's skin or body parts as an aversive stimulus contingent upon the occurrence of a behavior that has been identified in the person's individual program plan for reduction or elimination.

Subp. 16. [Repealed, 18 SR 1141; 18 SR 2244]

Subp. 16a. **Individual program plan.** "Individual program plan" has the meaning given it in part 9525.0004, subpart 11.

Subp. 16b. **Individual service plan.** "Individual service plan" means the written plan developed by the service planning team containing the components required under Minnesota Statutes, section 256B.092.

Subp. 17. **Informed consent.** "Informed consent" means consent to the use of an aversive or deprivation procedure that is given voluntarily by a person or the person's legal representative after disclosure of the information required in part 9525.2780, subpart 4, and that is obtained by the case manager under part 9525.2780.

Subp. 18. [Repealed, 18 SR 1141]

Subp. 19. **Intermediate care facility for persons with a developmental disability or ICF/DD.** "Intermediate care facility for persons with a developmental disability" or "ICF/DD" means a program licensed under Minnesota Statutes, sections 245A.01 to 245A.16 and 252.28, subdivision 2, to provide services to persons with a developmental

disability and a physical plant licensed as a supervised living facility under Minnesota Statutes, chapter 144, which together are certified by the Minnesota Department of Health as an intermediate care facility for persons with a developmental disability.

Subp. 19a. **Internal review committee.** "Internal review committee" means the committee responsible under part 9525.2750, subpart 2, for the review and approval of individual program plans proposing the use of controlled procedures.

Subp. 20. **Legal representative.** "Legal representative" means the parent or parents of a person under 18 years old or a guardian or conservator authorized by the court to make decisions about services for a person of any age.

Subp. 21. [Repealed, 18 SR 1141]

Subp. 21a. **License holder.** "License holder" has the meaning given in Minnesota Statutes, section 245A.02, subdivision 9.

Subp. 22. **Manual restraint.** "Manual restraint" means physical intervention intended to hold a person immobile or limit a person's movement by using body contact as the only source of physical restraint. The term does not mean physical contact used to: (1) facilitate a person's completion of a task or response when the person does not resist or the person's resistance is minimal in intensity and duration; (2) escort or carry a person to safety when the person is in danger; or (3) conduct necessary medical examinations or treatments.

Subp. 23. **Mechanical restraint.** "Mechanical restraint" means the use of devices such as mittens, straps, restraint chairs, or papoose boards to limit a person's movement or hold a person immobile as an intervention precipitated by a person's behavior. The term does not apply to mechanical restraint used to treat a person's medical needs, to protect a person known to be at risk of injury resulting from lack of coordination or frequent loss of consciousness, or to position a person with physical disabilities in a manner specified in the person's individual program plan. The term does apply to, and parts 9525.2700 to 9525.2810 do govern, mechanical restraint when it is used to prevent injury with persons who engage in behaviors, such as head-banging, gouging, or other actions resulting in tissue damage, that have caused or could cause medical problems resulting from the self-injury.

Subp. 24. **Person with a developmental disability or person.** "Person with a developmental disability" or "person" means a person who has been determined to meet the diagnostic requirements under parts 9525.0004 to 9525.0036.

Subp. 25. **Positive practice overcorrection.** "Positive practice overcorrection" means a procedure that requires a person to demonstrate or practice a behavior at a rate or for a length of time that exceeds the typical frequency or duration of that behavior. The behaviors identified for positive practice are typically appropriate adaptive behaviors or are incompatible with a behavior identified for reduction or elimination in a person's individual program plan.

Subp. 26. **Positive reinforcement.** "Positive reinforcement" means the presentation of an object, event, or situation following a behavior that increases the probability of the behavior recurring. Typically, the object, event, or situation presented is enjoyable, rewarding, or satisfying.

Subp. 27. **Qualified developmental disability professional or QDDP.** "Qualified developmental disability professional" or "QDDP" means an individual who meets the qualifications specified in Code of Federal Regulations, title 42, section 483.430.

Subp. 28. **Regional center.** "Regional center" has the meaning given it in Minnesota Statutes, section 253B.02, subdivision 18.

Subp. 29. **Regional review committee.** "Regional review committee" means a committee established by part 9525.2790 to monitor parts 9525.2700 to 9525.2810 as mandated by Minnesota Statutes, section 245.825. Review committee jurisdictions and responsibilities are defined in part 9525.2790.

Subp. 30. [Repealed, 18 SR 1141]

Subp. 31. **Restitutional overcorrection.** "Restitutional overcorrection" means a procedure that requires a person to clean, repair, or correct an area or situation damaged or disrupted as a result of the person's behavior to a point where the area or situation is not only restored to but exceeds its original condition.

Subp. 32. **Seclusion.** "Seclusion" means the placement of a person alone in a room from which egress is:

- A. noncontingent on the person's behavior; or
- B. prohibited by a mechanism such as a lock or by a device or object positioned to hold the door closed or otherwise prevent the person from leaving the room.

Subp. 33. [Repealed, 18 SR 1141]

Subp. 33a. **Substantial change.** "Substantial change" means a change in the individual program plan that intensifies the intrusiveness of the controlled procedure by:

- A. expanding, adding, or replacing in any way:
  - (1) the target behaviors for which the controlled procedure is to be implemented; or
  - (2) the type of controlled procedure;
- B. the method of implementation;
- C. the criteria for change or the criteria for termination of implementation of the controlled procedure; or
- D. deleting without replacing a target behavior.

Subp. 34. **Target behavior.** "Target behavior" means a behavior identified in a person's individual program plan as the object of efforts intended to reduce or eliminate the behavior.

Subp. 35. **Time out or time out from positive reinforcement.** "Time out" or "time out from positive reinforcement" means removing a person from the opportunity to gain positive reinforcement and is employed when a person demonstrates a behavior identified in the individual program plan for reduction or elimination. Return of the person to normal activities from the time out situation is contingent upon the person's demonstrating more appropriate behavior. Time out periods are usually brief, lasting only several minutes. Time out procedures governed by parts 9525.2700 to 9525.2810 are:

A. "exclusionary time out," which means removing a person from an ongoing activity to a location where the person cannot observe the ongoing activity; and

B. "room time out," which means removing a person from an ongoing activity to an unlocked room. The person may be prevented from leaving a time out room by staff members but not by mechanical restraint or by the use of devices or objects positioned to hold the door closed.

**Statutory Authority:** *MS s 245.825; 256B.092*

**History:** *11 SR 2408; L 1987 c 333 s 22; 13 SR 1448; 18 SR 1141; 18 SR 2244; L 2005 c 56 s 2; L 2013 c 59 art 3 s 21*

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