**HUMAN SERVICES**

**DIVISION OF DEVELOPMENTAL DISABILITIES**

**Mechanical Restraints and Safeguarding Equipment**

**Proposed Readoption with Amendments: N.J.A.C. 10:42**

**Proposed New Rules: N.J.A.C. 10:42-2.3, 3.2, and 3.5**

Authorized By:Jennifer Velez, Commissioner, Department of Human Services.

Authority: N.J.S.A. 30:1-12 et seq., 30:4-6 et seq., and 30:6D-5.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-071.

Submit comments by August 1, 2014, to:

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The agency proposal follows:

**Summary**

Pursuant to N.J.S.A. 52:14B-5.1.b, N.J.A.C. 10:42 will expire on May 4, 2014. As the Department has filed this notice of rules proposed for readoption with amendments with the Office of Administrative Law prior to that date, the expiration date is extended 180 days to October 31, 2014, pursuant to N.J.S.A. 52:14B-5.1.c(2). The Division of Developmental Disabilities (Division) has reviewed this chapter and has found that, with the proposed amendments, the rules are necessary, reasonable, and proper for the purpose for which they were originally promulgated. The Division adopted requirements for the use of mechanical restraints and safeguarding equipment as N.J.A.C. 10:42 on August 18, 1986. The chapter was repealed and replaced with new rules effective August 19, 1991. The chapter was readopted effective July 16, 1996, and expired on July 16, 2001, pursuant to Executive Order No. 66 (1978). The chapter was adopted as new rules effective November 5, 2001, and was readopted effective May 4, 2007. This chapter sets forth the procedures required for the use of mechanical restraints and safeguarding equipment.

Consistent with national trends and best practices in the field, the proposed amendments are designed to foster the reduction or elimination of the use of mechanical restraints and safeguarding equipment in favor of less restrictive practices. Individuals should be provided with appropriate behavioral supports designed to meet their specific needs. Mechanical restraints and safeguarding equipment are to be used only to address significant safety concerns related to preventing behaviors that affect the health and well-being of the individual or others.

This chapter was adopted without change on May 4, 2007. At that time, the Division had been working collaboratively to develop new standards for the use of mechanical restraints with a workgroup consisting of stakeholders, including agencies, trade organizations, advocates, and interested parties. The Division explained that it would continue to develop these new standards which would be designed to promote best behavioral practices and strive for the reduction of the use of restraints. The proposed amendments include significant portions of the provisions developed by this workgroup. The Division intends to continue to address this issue with its stakeholders in the future.

The proposed amendments strengthen the requirements for procedures that entities are required to submit in order to obtain approval for the use of mechanical restraints, including staff training requirements. The proposed amendments also require agencies to develop a quality management process to analyze and review the use of mechanical restraints, for the purpose of reducing reliance upon mechanical restraints, quality improvement, and risk management. In addition, language has been modified throughout the chapter to reflect current and best practices.

The rules proposed for readoption and the proposed amendments are summarized as follows:

**Subchapter 1. General Provisions**

N.J.A.C. 10:42-1.1 sets forth the purpose of the chapter. New language is being proposed to reflect the intention to reduce or eliminate the use of mechanical restraints and safeguarding equipment in favor of less restrictive measures.

N.J.A.C. 10:42-1.2 explains that the chapter applies to components of the Division, as well as providers regulated by or under contract with the Division.

N.J.A.C. 10:42-1.3 defines the terms used in the chapter. New definitions are being proposed to update the rules and to support the proposed procedural amendments contained in the chapter. New definitions include: “Assistant Commissioner,” “authorizing personnel,” “Behavior Policy Review Committee,” “behavior upport committee,” “behavior support plan,” “Department,” “Division,” “Executive Director,” “qualified intellectual disabilities professional (QIDP),” “regional administrator,” and “service plan,” as these terms are used in this chapter. The definitions of “emergency procedures,” “Individual Habilitation Plan (IHP)” and “qualified mental retardation professional (QMRP)” are proposed to be deleted, as they are no longer used in the rules proposed for readoption with amendments.

Additionally, the following terms are proposed to be amended: “continual observation,” “highly restrictive mechanical restraint,” “Human Rights Committee,” “informed consent,” “Interdisciplinary Team,” “mechanical restraint,” and “safeguarding equipment.” “Continual observation” is amended to clarify that a staff member must be present in the room with the individual at all times. “Highly restrictive mechanical restraint” is amended to delete specific examples, several of which are proposed to be prohibited within the amended definition of “mechanical restraint.” “Human rights committee” is amended to delete “superintendent,” as individuals with this title no longer serve on the committee and to clarify that N.J.A.C. 10:41A governs human rights committees. “Informed consent” is amended to make clear that an individual acting on behalf of another must have legal authority to do so. “Interdisciplinary Team” is amended to replace “IHP” with “service plan.” This change is proposed throughout the chapter to reflect the terminology currently used by the Division. “Mechanical restraint” is amended to update the language consistent with current usage and practice in the field. Namely, rather than a functional definition regarding limiting freedom of movement, the term is defined in terms of its purpose, which is to intervene when a behavior may endanger health or safety of the individual or others. Additionally, specific examples have been deleted, and the list of prohibited devices has been expanded. Lastly, consistent with the current usage of terminology, reference to “involuntary self abuse” has been deleted from the definition of “safeguarding equipment.”

N.J.A.C. 10:42-1.4 sets forth the general requirements for the use of mechanical restraints and safeguarding equipment. The proposed amendments delete existing subsection (a), which contains outdated language referencing “acceptable behavior” that does not sufficiently address conditions that should be available to the individual to minimize the risk of dangerous behavior and replace it with a new subsection (a) containing modern language reflecting best practices in the field for providing a supportive environment. Subsection (b) is proposed for amendment to clarify that use of a helmet to prevent injury due to self-injurious behavior is a mechanical restraint. Language regarding use “for control purposes” is proposed to be deleted from subsection (b), as well as subsections (c) and (g). The development of a device that is not commercially produced is proposed for amendment at subsection (g) to require approval of the behavior support committee, CEO or executive director; Behavior Policy Review Committee; and Assistant Commissioner. The existing rule requires approval of the Department’s chief medical consultant, the human rights committee, and the Division Director. The title “Division Director” is no longer current, as the agency head is now the “Assistant Commissioner.” An amendment is proposed at subsection (i) to clarify that devices used during medical and dental evaluations are safeguarding equipment, rather than a restraint. An amendment is proposed at subsection (j) to require mechanical restraints be inspected following each use rather than prior to each use and to add that the purpose is to ensure safety. The description of maintenance of mechanical restraints is proposed to be amended to: add that the restraints shall remain clean, to remain in “good repair” as opposed to in “good condition,” and to be “free from damage” rather than “free from tears and protrusions.”

**Subchapter 2. Safeguarding Equipment and Mechanical Restraints**

N.J.A.C. 10:42-2.1 sets forth procedures and requirements for the use of safeguarding equipment. Two amendments are proposed to reflect modern usage, namely “self-injury” would be replaced with “injury” and “behavior modification” with “behavioral supports.”

N.J.A.C. 10:42-2.2 sets forth procedures and requirements for the use of mechanical restraints. Subsection (a) is proposed for amendment to delete language that a mechanical restraint can be used as an emergency measure to “control a person” and replace it with language that mechanical restraints are used as an emergency measure to manage the risks when severe behavior endangers health and safety and other forms of protection are judged to be insufficient. Reference to the use of a restraint as part of an approved behavior modification program has been replaced with use as part of an approved behavior support plan. For purposes of clarity, paragraph (a)3, regarding safeguarding devices is proposed to be deleted, as provisions regarding the use of safeguarding equipment are contained in N.J.A.C. 10:42-2.1. At subsection (b), the term “Director, Division of Developmental Disabilities” is proposed to be replaced with “Assistant Commissioner or designee,” consistent with the current title of the agency head. This change is proposed throughout the chapter. At subsection (b), language regarding when not to use mechanical restraints is proposed to be deleted. This language will be replaced and strengthened by proposed new N.J.A.C. 10:42-2.3, Prohibited practices. Recodified subsection (c) is proposed to include that an individual is to be released when his or her behavior no longer presents a risk. In addition, new language is proposed at recodified subsection (f) to require the interdisciplinary team to review the functional behavior assessment, functional behavior analysis, and clinical assessments when developing strategies to address an individual’s behavioral needs. Proposed new N.J.A.C. 10:42-2.3 is proposed to emphasize, strengthen, and clarify prohibited practices concerning the use of mechanical restraints and safeguarding equipment.

**Subchapter 3. Application and Implementation**

N.J.A.C. 10:42-3.1 sets forth the requirements for facilities and service providers to obtain approval to utilize mechanical restraints. The Division is proposing amendments to this section to bolster material that must be included in the procedures that providers submit to obtain approval. Subsection (a) is amended to require comprehensive written procedures to be submitted to the Behavior Policy Review Committee, rather than the Division Director. Language is also proposed to state that approval or disapproval is based upon the program’s ability to safely and appropriately implement the procedures, as well as provide staff training.

N.J.A.C. 10:42-3.1(b)2 through 6, which sets forth the following items to be included in the procedure submitted by agencies: criteria for use of mechanical restraint; instructions for the application of each type of restraint; precautions for the use of mechanical restraints including certification by a physician that use of restraint is not medically contra-indicated for the individual; recordkeeping and review requirements; and a curriculum for training staff which shall include, but not be limited to, training in the proper use and application of each form of mechanical restraint to be employed, as well as the recognition of the signs of physical distress, are proposed for deletion. These paragraphs are proposed to be replaced with new N.J.A.C. 10:42-3.1(b)2 through 11.

Proposed new N.J.A.C. 10:42-3.1(b)2 requires that a facility’s procedure include identification of the training curriculum to be followed.

Proposed new N.J.A.C. 10:42-3.1(b)3 requires that a facility’s procedure include identification of the trainers’ qualifications.

Proposed new N.J.A.C. 10:42-3.1(b)4 requires a facility’s procedure to include a statement that authorizing personnel meet the requirements of this chapter and have been designated by the Executive Director or CEO.

Proposed new N.J.A.C. 10:42-3.1(b)5 requires a facility’s procedure to include a statement that staff who use mechanical restraints have been trained in accordance with this chapter and receive at least an annual assessment of competence and retraining as necessary. The facility or service provider must maintain documentation of such training and assessment.

Proposed new N.J.A.C. 10:42-3.1(b)6 requires a statement that continual observation by staff and documented checks at 15 minute intervals, consistent with this chapter, is required for the use of mechanical restraints.

Proposed new N.J.A.C. 10:42-3.1(b)7 requires the procedure to include a statement requiring immediate medical attention in response to injury or physical distress that occurs during the use of a mechanical restraint.

Proposed new N.J.A.C. 10:42-3.1(b)8 requires a process for analyzing and reviewing the use of mechanical restraints for the purpose of reducing reliance upon mechanical restraints.

Proposed new N.J.A.C. 10:42-3.1(b)9 requires the procedure to include statements indicating that any application of approved mechanical restraints that results in injury or is at variance with an agency’s Division-approved curriculum or procedure will be reported as an unusual incident. If determined necessary, the staff member shall be retrained, and disciplinary action shall be taken if the actions were abusive or neglectful.

Proposed new N.J.A.C. 10:42-3.1(b)10 requires that a facility’s procedure include statements that the legal guardian or parent shall be advised by telephone or preferred method of communication within 24 hours of an emergency use of a mechanical restraint not provided for in a behavior support plan.

Proposed new N.J.A.C. 10:42-3.1(b)11 requires that a facility’s procedure include provisions for addressing the emotional needs of the individual(s) and staff involved in the use of a mechanical restraint. If an individual’s behavior support plan or service plan specifies how their emotional needs shall be addressed, the plan shall be followed.

New N.J.A.C. 10:42-3.2 is proposed to strengthen staff training requirements. Only training reviewed and approved by the Division’s Behavior Policy Review Committee shall be used. All personnel authorized to approve the use of mechanical restraints, as well as those who apply and monitor the use of restraints, must be trained. Training is to reflect the specific needs of individuals receiving services. The proposed new section includes topic areas that must be included in the training.

Existing N.J.A.C. 10:42-3.2, Implementation standard: developmental centers/private licensed facilities for persons with developmental disabilities, is proposed to be recodified as N.J.A.C. 10:42-3.3. The language “licensed pursuant to N.J.A.C. 10:47” is proposed to be added to the section heading; this amendment clarifies which facilities are covered under this section.

Recodified N.J.A.C. 10:42-3.3(a) is proposed for amendment to replace “Director, Division of Developmental Disabilities” with “Behavior Policy Review Committee.”

Recodified N.J.A.C. 10:42-3.3(a)1 is proposed for amendment to require “the IDT to review the client record to identify potential areas of increased risk in the application of mechanical restraints due to medical conditions, mental health status, physical functioning, or other personal characteristics. If potential areas of increased risk are identified.” The rule continues to require that a physician must certify that the use of the restraint is not medically contraindicated prior to an initial restraint authorization.

Recodified N.J.A.C. 10:42-3.3(a)2 is proposed to be amended to change the individual responsible for authorizing the use of a mechanical restraint in an emergency situation from the “superintendent, chief executive officer (CEO), or his or her designee” to “authorizing personnel” and deletes the last sentence, which is unnecessary as “authorizing personnel” is a proposed for inclusion as a definition under N.J.A.C. 10:42-1.3.

N.J.A.C. 10:42-3.2(a)3 is proposed for deletion, as this requirement is contained in the proposed definition of “authorizing personnel.”

Recodified N.J.A.C. 10:42-3.3(a)4 is proposed for amendment to greatly reduce the time period that an emergency restraint order is effective from 12 consecutive hours to one hour.

Recodified N.J.A.C. 10:42-3.3(a)5 adds the term “emergency” before “restraint orders” for clarity purposes. “Agent” is proposed to be changed to “personnel” as authorizing personnel is the term defined and proposed to be used throughout the rules.

Recodified N.J.A.C. 10:42-3.3(a)8 is proposed for amendment to clarify that an individual is to be released immediately if he or she appears to be in physical distress or if the behavior no longer presents a risk. The proposed amendment also replaces language that an individual must be released for a period of not less than 10 minutes during each hour of restraint with language that in the event an individual cannot be released within 10 minutes, efforts to loosen or change the position of the restraint must be attempted. In addition, the proposed amendment replaces language that one limb may be released at a time during the 10-minute period if the person cannot be completely released with language that documented attempts to release each limb separately for a 10-minute period shall be made.

Recodified N.J.A.C. 10:42-3.3(a)9 is amended to add the phrase “mechanical restraints such as” to clarify that the use described is a mechanical restraint as opposed to a safeguarding device.

Recodified N.J.A.C. 10:42-3.3(a)11 is amended to change the reference to “crib” to “partially enclosed bed” to reflect current terminology and to replace language that “if a crib is used for control purposes, checks shall be required” with the updated and clarified language “if a partially enclosed bed is used as a mechanical restraint, 15-minute checks shall be required.”

Recodified N.J.A.C. 10:42-3.3(a)13 is proposed to be amended to add a cross-reference and add that if future use of a restraint may be anticipated, a behavior support plan shall be considered and, if appropriate, developed or modified to address the behavior.

Recodified N.J.A.C. 10:42-3.3(a)14 is amended to clarify that an unusual incident report is to be prepared when the use of the restraint is unauthorized, improperly implemented, or causes injury to the individual.

Proposed new N.J.A.C. 10:42-3.3(a)15 and 16 provide additional oversight by requiring a Division human rights committee (HRC) to review the pertinent circumstances when a mechanical restraint has been used for an individual three times in a contiguous six-month period and such use is not included in the individual’s behavior support plan. The IDT is required The HRC shall forward the results of its review to the Assistant Commissioner or designee within 10 days.

Existing N.J.A.C. 10:42-3.3, Implementation standards: community programs for the developmentally disabled, is proposed to be recodified as N.J.A.C. 10:42-3.4. The section heading is proposed for amendment to change “developmentally disabled” to “persons with developmental disability.”

Existing N.J.A.C. 10:42-3.3(a) is proposed for deletion, as this is covered elsewhere in the rules as amended, namely, N.J.A.C. 10:42-3.1 and 3.2.

Recodified N.J.A.C. 10:42-3.4(a) is proposed for amendment to replace “Director, Division of Developmental Disabilities” with “Behavior Policy Review Committee.”

Existing N.J.A.C. 10:42-3.3(b)1 and 2 are proposed for deletion and replaced, with language consistent with the amendments discussed above at recodified N.J.A.C. 10:42-3.3(a)1 and 2, as new N.J.A.C. 10:42-3.4(a)1 and 2.

Recodified N.J.A.C. 10:42-3.4(a)3 and 5 are proposed to be amended to clarify that these paragraphs refer to the emergency use of restraints, and that authorizing personnel must approve the use of the restraint.

Recodified N.J.A.C. 10:42-3.4(a)4 is proposed to be amended to greatly reduce the time period that an emergency restraint order is effective from 12 hours to one hour.

Recodified N.J.A.C. 10:42-3.4(a)8 is proposed to be amended to be consistent with recodified N.J.A.C. 10:42-3.3(a)8, as discussed above.

Recodified N.J.A.C. 10:42-3.4(a)9 is proposed to be amended to clarify that the use described is a mechanical restraint as opposed to a safeguarding device.

Existing N.J.A.C. 10:42-3.4(b)12 and 13 are proposed for deletion and replaced with new N.J.A.C. 10:42-3.3(a)12 and is amended to be consistent with N.J.A.C. 10:42-3.3(a)14 and 13, respectively, as discussed above.

Proposed new N.J.A.C. 10:42-3.4(a)14 and recodified N.J.A.C. 10:42-3.4(a)15, are proposed to be amended to be consistent with the amendments proposed at recodified N.J.A.C. 10:42-3.3(a)15 and 16 as described above.

Proposed new N.J.A.C. 10:42-3.5 sets forth quality management requirements for entities that use mechanical restraints. Under this section, entities are required to establish a process for analyzing restraint utilization and reviewing the use of mechanical restraints for the purpose of reducing reliance upon mechanical restraints, quality improvement, and risk management.

**Subchapter 4. Medical or Dental Evaluations, Examinations or Treatment**

N.J.A.C. 10:42-4.1 is proposed to be amended to clarify that when restraints are used for medical or dental treatment, they are used as “safeguarding equipment,” a term defined in this chapter.

As the Department has provided a 60-day comment period on this notice of proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

**Social Impact**

The rules proposed for readoption with amendments and new rules direct that every effort should be made to reduce or eliminate the use of mechanical restraints and safeguarding equipment in favor of less restrictive measures. This goal is in accord with national trends and best practices in the field. The proposed amendments and new rules recognize that the risk of dangerous behaviors can be minimized when individuals are provided with a safe environment, access to services, activities that are enjoyable and individualized, the opportunity for the development of life skills, and meaningful participation in the community, among other things. The proposed amendments and new rules enhance the requirements for written procedures and staff training applicable to agencies utilizing mechanical restraints. The time that an emergency order for the use of a mechanical restraint is effective is proposed to be greatly reduced from 12 contiguous hours to one hour. The proposed amendments and new rules also include quality management requirements for the purposes of reducing reliance upon mechanical restraints, quality improvement, and risk management. For these reasons, the rules proposed for readoption with amendments and new rules will have a positive social impact for the individuals served by the Division, their families, and the affected community at large.

**Economic Impact**

The rules proposed for readoption with amendments and new rules will have no economic effect on the individuals with developmental disabilities served by the Division or on the public, and minimal impact on agencies that contract with or are regulated by the Division.

**Federal Standards Statement**

The Department has reviewed the applicable Federal statutes and regulations, the Federal Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. §§ 15041 et seq.) and the intermediate care facilities for individuals with intellectual disabilities regulations (42 CFR 483.450) and has determined that the rules proposed for readoption with amendments and new rules meet, but do not exceed, Federal requirements.

**Jobs Impact**

The rules proposed for readoption with amendments and new rules will not generate jobs nor cause any jobs to be lost in New Jersey.

**Agriculture Industry Impact**

The rules proposed for readoption with amendments and new rules would have no impact on agriculture in the State of New Jersey.

**Regulatory Flexibility Statement**

The rules proposed for readoption with amendments and new rules will apply to components of the Division of Developmental Disabilities, as well as providers regulated by or under contract with the Division. A large number of these providers would qualify as “small businesses” as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. As discussed in the Summary above, the rules proposed for readoption with amendments and new rules will impose reporting, recordkeeping, and compliance requirements for the subset of providers who seek to use mechanical restraints. These requirements are not expected to impose a significant impact on the regulated community, as the rules contain reporting, recordkeeping, and compliance requirements and these requirements are consistent with best practices. Any enhanced recordkeeping will improve quality management and facilitate review to allow for the reduction or elimination of the use of mechanical restraints, leading to a positive social impact. No additional professional services or costs are likely to be needed to comply with the enhanced recordkeeping requirements, nor is any adverse impact on the regulated community expected.

**Housing Affordability Impact Analysis**

The rules proposed for readoption with amendments and new rules will have an insignificant impact on affordable housing in New Jersey and there is an extreme unlikelihood that the rules would evoke a change in the average costs associated with housing because the rules pertain to use of mechanical restraints and safeguarding equipment in regulated facilities.

**Smart Growth Development Impact Analysis**

The Division does not anticipate the rules proposed for readoption with amendments and new rules will have any impact upon the achievement of smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan because the rules pertain to use of mechanical restraints and safeguarding equipment in regulated facilities.

**Full text** of the rules proposed for readoption may be found in the New Jersey Administrative Code at N.J.A.C. 10:42.

**Full text** of the proposed amendments and new rules follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 1. GENERAL PROVISIONS

10:42-1.1 Purpose

The purpose of this chapter is to detail the policies and procedures for the utilization of safeguarding equipment and mechanical restraints. **Every effort should be made to reduce or eliminate the use of mechanical restraints and safeguarding equipment in favor of less restrictive measures. The use of mechanical restraints and safeguarding equipment must be justified by health and safety concerns related to preventing behaviors that may cause significant injury or other compromise to the health and well-being of the individual or others. Individuals are to be provided appropriate behavioral supports in accordance with best practices.**

10:42-1.3 Definitions

For the purpose of this chapter, the following terms shall have the [meaning defined herein] **following meanings**:

**“Assistant Commissioner” means the Assistant Commissioner of the Division of Developmental Disabilities.**

**“Authorizing personnel” means a person designated by the chief executive officer, regional administrator, or executive director to order or authorize mechanical restraints, who meets or exceeds the requirements of a qualified intellectual disabilities professional, and has completed the training requirements of N.J.A.C. 10:42-3.2.**

**“Behavior Policy Review Committee” means a group of professionals with clinical expertise in behavior management that are appointed by the Assistant Commissioner to review and approve policy and procedure.**

**“Behavior support committee” means a group of professionals with clinical expertise within the Division component or provider that reviews behavior support plans and determines whether plans are clinically and technically appropriate. These committees act as an advisory body to the chief executive officer, regional administrator, or executive director.**

**“Behavior support plan” means a comprehensive, individualized, procedural plan of specific actions to be taken in advance of and/or subsequent to the occurrence of a target behavior, the purpose of which is to modify the frequency, duration, and/or intensity of the target behavior, facilitate alternative positive behaviors, and, as needed, to identify safety mechanisms to be utilized to protect the individual and others from harm.**

…

“Continual observation” means that the person in mechanical restraint can be seen by a staff member **who is present in the room** at all times.

[“Emergency procedures” means the brief use of procedures to control severely aggressive or destructive behaviors that place the individual or others in imminent danger or physical harm.]

**“Department” means the Department of Human Services.**

**“Division” means the Division of Developmental Disabilities.**

**“Executive director” means the individual with administrative authority over a residential program licensed in accordance with N.J.A.C. 10:44A, Standards for Community Residences for Individuals with Developmental Disabilities, 10:44C, Standards for Community Residences for Persons with Head Injuries, and 10:47, Standards for Private Licensed Facilities for Persons with Developmental Disabilities; or an agency under contract with or regulated by the Division.**

“Highly restrictive mechanical restraint” means **a type of mechanical** restraint[s] whose use is considered to be intrusive, and can restrict circulation, breathing**,** or render an individual vulnerable to other persons in the immediate area. [Highly restrictive mechanical restraints include, but are not limited to: a camisole, wrist cuff, ankle cuff, papoose boards, restraint chairs and standing boxes.]

[“Human Rights Committee”] **“Human rights committee”** **(HRC)** means a group comprised of professionals, individuals served, advocates, and/or interested individuals from the community at large who function as an advisory body to the chief executive officer, executive director, **or** regional administrator[, or superintendent] on issues directly or indirectly affecting the rights of individuals served by the Division**,** **in accordance with N.J.A.C. 10:41A.**

[“Individual Habilitation Plan” (IHP) (see N.J.S.A. 30:6D-10 et seq.) means a written plan of intervention and action that is developed by the interdisciplinary team. It specifies both the prioritized goals and objectives being pursued by each individual and the steps being taken to achieve them. It may identify a continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The IHP is a single plan that encompasses all relevant components, such as an education plan, a behavior modification plan, a program plan, a rehabilitation plan, a treatment plan and a health care plan. The complexity of the IHP will vary according to the needs, capabilities and desires of the person. In most instances, the IHP shall address all major needs identified. The major needs shall be prioritized. For an individual who makes only specific service requests, the IHP shall be a service plan which addresses only those specific requests.]

“Informed consent” means a formal expression, oral or written, of agreement with a proposed course of action by an individual who has the capacity, the information**,** and the ability to render voluntary agreement on his or her own behalf or [on behalf of another] **by someone with legal authority to act on another’s behalf**.

“Interdisciplinary Team” (IDT) means an individually constituted group responsible for the development of a single, integrated [IHP] **service plan**. The team shall consist of the individual receiving services; the legal guardian, the parents or family member (if the adult desires that the parent or family member be present); those persons who work most directly with the individual served; and professionals and representatives of service areas who are relevant to the identification of the individual’s needs and the design and evaluation of programs to meet them.

“Mechanical restraint” means [the application of] a device [which restricts freedom of movement either partially or totally. These devices include, but are not limited to: bedside rails, mitts, jumpsuits, arm splints, vests, helmets and body harnesses.] **utilized by staff to intervene when a behavior will likely endanger the health or safety of the individual or others and less restrictive techniques have proved ineffective or not feasible. The device is attached to or adjacent to an individual’s body and restricts partial or total freedom of movement or normal access to portions of the individual’s body**.The use of [domed or] **totally** enclosed [cribs] **beds, papoose boards, and standing boxes** shall be prohibited **as a mechanical restraint**.

...

[“Qualified mental retardation professional” (QMRP) means a person who has at least one year of experience in working with persons with developmental disabilities and is one of the following:

1. A doctor of medicine or osteopathy;

2. A registered nurse;

3. A professional program staff person who is licensed, certified or registered, as applicable. If the professional program staff do not fall under the jurisdiction of State licensure, certification or registration requirements, he or she shall meet the following qualifications;

i. To be designated as an occupational therapist, an individual shall be eligible for certification as an occupational therapist by the American Occupational Therapy Association or another comparable body;

ii. To be eligible as an occupational therapy assistant, an individual shall be eligible for certification as a certified occupational therapy assistant by the American Occupational Therapy Association or other comparable body;

iii. To be eligible as a physical therapist, the individual shall be eligible for certification as a physical therapist by the American Physical Therapy Association or other comparable body;

iv. To be eligible as a physical therapy assistant, an individual shall be eligible for registration by the American Physical Therapy Association or be a graduate of a two-year college level program approved by the American Physical Therapy Association or other comparably body;

v. To be designated as a psychologist, an individual shall have at least a master’s degree in psychology from an accredited school;

vi. To be designated as a social worker, an individual shall:

(1) Hold a graduate degree from a school of social work accredited or approved by the Council on Social Work Education or another comparable body; or

(2) Hold a Bachelor of Social Work degree from a college or university accredited or approved by the Council on Social Work Education or another comparable body;

vii. To be designated as a speech language pathologist or audiologist, an individual shall:

(1) Be eligible for a certificate of clinical competence in speech language pathology or audiology granted by the America Speech Language Hearing Association or other comparable body; or

(2) Meet the educational requirements for certification and be in the process of accumulating the supervised experience required for certification;

viii. To be designated as a professional recreation staff, an individual shall have a bachelor degree in recreation or in a specialty area such as art, dance, music or physical education;

ix. To be designated as a professional dietitian or nutritionist, an individual shall be eligible for registration by the American Dietetic Association;

x. To be designated as a human services professional, an individual shall have at least a bachelor degree in a human services field, including, but not limited to, sociology, special education, rehabilitation, counselling or psychology.]

**“Qualified intellectual disabilities professional (QIDP)”means a person who meets no less than the qualifications as required by 42 CFR Subpart I, Section 483.430.**

**“Regional administrator” means the person having administrative authority and responsibility over a region of community services.**

“Safeguarding equipment” means devices [which] **that** restrict movement used to provide support for the achievement of functional body position or proper balance; devices used for specific medical, dental**,** or surgical treatment; and devices to protect the individual from symptoms of existing medical conditions, including, but not limited to, seizures[,] **and** ataxia [and involuntary self abuse].

**“Service plan” means a written, individualized habilitation plan, consistent with the requirements of N.J.S.A. 30:6D-10 through 12, developed by the IDT. It is an outcome-based planning tool that, at a minimum, identifies each individualized program, support, and/or service requested by and provided to the individual, for which the individual demonstrates a need. It identifies the person and/or provider responsible for its implementation. The complexity of the service plan will vary according to the individual’s interests, preferences, and needs. The service plan format must be Division approved.**

…

10:42-1.4 General requirements

[(a) The Division of Developmental Disabilities recognizes that acceptable behavior in children and adults with developmental disabilities is fostered and maintained by a stimulating environment, participation in activities that encourage development of new skills and support from the people with whom they come into contact. The Division is committed to providing a supportive environment to persons with developmental disabilities. However, the Division also recognizes that, even in a supportive environment, some individuals will exhibit aggressive, destructive**,** or self-injurious behaviors. When such behaviors present a danger to the individual himself or herself or others, action must be taken to help the individual control himself or herself, or, if that is not possible**,** to control the individual. If the individual exhibits these problem behaviors on a regular basis, a professionally designed program (such as a medical intervention or behavior modification) shall be applied to change these behaviors. When the individual exhibits a dangerous behavior that has not been previously observed or reported emergency measures must be available to assist them in protecting the individual or others. Among the emergency measures that are used in such situations are mechanical restraints. Some of the devices used as mechanical restraints may also be used to help an individual achieve functional body alignment or to protect the individual from harm. In some instances, only the intended use of the device will determine whether it is a mechanical restraint or a piece of safeguarding equipment.]

**(a) The Division recognizes that the risk of dangerous behavior may be minimized when the following conditions are made available to the individual:**

* 1. **A safe environment, which provides sufficient living area, employs effective sanitary practices, and affords the opportunity for personal privacy;**
  2. **Access to needed services, activities, and possessions, which are enjoyable and individualized;**
  3. **Frequent communication and positive interactions with others;**
  4. **Culturally sensitive treatment, which recognizes, through words and actions, that the individual is a valued and respected person;**
  5. **Opportunity for the development of appropriate social, communication, coping, and other life skills;**
  6. **Meaningful participation in the community including support for and development of relationships with family and friends; and**
  7. **Appropriate treatment for medical conditions and mental health issues.**

(b) Devices**,** such as bed rails, mitts, jumpsuits, arm splints, vest**s**, helmets**,** and body harnesses may be used as either a mechanical restraint [for control purposes] or safeguarding equipment, depending upon **the** circumstances. For example, a helmet used to prevent injury due to seizures is a safeguarding device. Use of a helmet to prevent injury due to self-injurious behavior is [for control purposes] **considered a mechanical restraint**.

(c) Primary reliance on punishment, physical**,** or mechanical restraints**,** or aversive techniques to decrease undesirable behavior is contrary to Division policy. Mechanical restraints [for control purposes] are considered to be appropriate only when absolutely necessary and their use shall be minimized in favor of other, more positive interventions.

(d)-(e) (No change.)

(f) The need for the particular device to be used as safeguarding equipment or for behavioral intervention shall be documented in the [Individual Habilitation Plan (IHP)] **service plan** and re-evaluated no less than annually as a part of the [IHP] **service plan** review or as specified by the Interdisciplinary Team in the [IHP] **service plan**.

(g) Only commercially produced devices shall be employed [for control purposes] **as mechanical restraints**. If a special device must be developed, the need for the device shall be:

1. Documented in the [IHP] **service plan**;
2. Approved by the [Department’s Chief Medical Consultant] **behavior support committee;**
3. Approved by the appropriate [Human Rights Committee; and] **human rights committee;**
4. Approved by the [Division Director.] **CEO or executive director;**

**5. Approved by the Behavior Policy Review Committee; and**

**6.** **Approved by the Assistant Commissioner.**

(h) (No change.)

(i) [Restraints] **Safeguarding equipment** may be used on a temporary basis to conduct medical and dental evaluations, examinations**,** or treatments when the individual’s behavior prevents the evaluation, examination**,** or treatment.

(j) Mechanical restraints shall be inspected [prior to] **following** each use to ensure[that they remain in good repair] **safety.** **They shall** **remain clean,** **in good condition,** and free from [tears or protrusions which] **damage that** may cause injury.

(k) The Division [of Developmental Disabilities] may require a service provider to terminate restraint usage for an individual if any requirements of this chapter are violated.

SUBCHAPTER 2. SAFEGUARDING EQUIPMENT AND MECHANICAL RESTRAINTS

10:42-2.1 Use of safeguarding equipment

(a)-(b) (No change.)

(c) If the equipment is used to prevent accidental [self-injury] **injury**, the physician shall document the specific medical condition [which] **that** warrants its use. The equipment is to be used to address a specific symptom of the [individuals] **individual’s** medical condition**,** which is not likely to be changed through [behavior modification] **behavioral supports**.

(d) Once the physician has documented the need for safeguarding equipment, the need shall be reviewed by the individual’s IDT. If the use of the safeguarding equipment is consistent with the goals and objectives in the individual’s [IHP] **service plan** and can be implemented, the use of the safeguarding equipment shall be included in the IHP.

(e) If the use of the safeguarding device cannot be integrated into the [IHP] **service plan**, the IDT shall meet to revise the plan to provide for the individual’s safety and habilitation needs. The IDT shall meet within 10 working days from the initial application for a safeguarding device.

(f) The need for safeguarding equipment shall be reviewed as part of the [IHP] **service plan** no less than annually.

(g) (No change.)

10:42-2.2 Mechanical restraints

(a) Mechanical restraints may be utilized only as follows:

1. As an emergency measure [to control a person in order to protect him/herself or others from harm] **to manage the risks associated with severe forms of inappropriate behavior that endanger the health and safety of the individual or others when other forms of protection are judged to be insufficient**; **or**

2. As part of an approved behavior[modification program utilizing aversive techniques to attempt to change a targeted behavior;] **support plan.**

[3. As a safeguarding device to protect the individual from accidental self-injury; or

4. As a control device for medical, surgical and dental examinations.]

(b) A facility or service provider may implement a program of mechanical restraint only with specific authorization of the [Director, Division of Developmental Disabilities] **Assistant Commissioner or designee**.

[(c) Mechanical restraints shall not be used as punishment (retribution), for the convenience of staff, or as a substitute for programming.]

[(d)] **(c)** The individual shall be immediately released if he or she appears to be in physical distress **or the individual’s behavior no longer presents a risk**.

[(e)] **(d)** (No change in text.)

[(f)] **(e)** Only personnel who have successfully completed a training program approved by the Division [of Developmental Disabilities] shall be permitted to apply, monitor**,** and release mechanical restraints.

[(g)] **(f)** Whenever an individual exhibits serious assaultive, self-injurious**,** or destructive behavior, controllable only by use of mechanical restraint, the interdisciplinary team shall meet to identify possible causes and develop strategies to address the [maladaptive] behavior. **The interdisciplinary team shall review the functional behavior assessment, functional behavior analysis, and clinical assessments performed on an individual and/or obtain such information if these procedures have not been completed.**

**10:42-2.3 Prohibited practices**

**(a) The use of mechanical restraints and safeguarding equipment are prohibited as:**

1. **Disciplinary procedures;**
2. **A form of retaliation or coercion;**
3. **Measures for the convenience of staff; or**
4. **Substitutes for skill development efforts, other systematic environmental modifications, or therapeutic interventions.**

**(b) It is prohibited to place a pillow, blanket, towel, or other items over the face of an individual or to otherwise cover their eyes, ears, nose, or mouth.**

**(c) Totally enclosed beds are prohibited as a mechanical restraint. The enclosed space on barred enclosures without tops shall not exceed three feet in height.**

SUBCHAPTER 3. APPLICATION AND IMPLEMENTATION

10:42-3.1 Application to use mechanical restraint

(a) Each facility or service provider requesting approval to utilize mechanical restraints shall submit [to the Director, Division of Developmental Disabilities,] comprehensive written procedures governing the use of restraint to **the Behavior Policy Review Committee. Approval or disapproval of an entity’s procedures shall be based on the facility, program, or provider’s ability to safely and appropriately implement the procedures, as well as provide staff training.**

(b) The procedure submitted shall include the following:

1. (No change.)

[2. Criteria for use of mechanical restraint;

3. Instructions for the application of each type of restraint;

4. Precautions for the use of mechanical restraint including certification by a physician that the use of restraint is not medically contra-indicated for the individual;

5. Recordkeeping and review requirements; and

6. A curriculum for training staff which shall include, but not be limited to, training in the proper use and application of each form of mechanical restraint to be employed as well as the recognition of the signs of physical distress.]

**2.** **Identification of the training curriculum to be followed, with diagrams, photographs, or graphs, and a narrative description providing instructions for the safe application of each mechanical restraint**;

**3**. **Identification of the trainers’ qualifications**;

**4**. **A statement that authorizing personnel meet the requirements of this chapter and have been so designated by the executive director or CEO**;

**5**. **A statement that staff who may need to use mechanical restraints have been trained in accordance with this chapter and receive at least an annual assessment of competence and retraining as necessary. The facility or service provider must maintain documentation of such training and assessment**;

**6**. **A statement that continual observation by staff and documented checks at 15-minute intervals, consistent with this chapter, shall be required for the use of mechanical restraints;**

**7**. **A statement requiring immediate medical attention in response to injury or physical distress that occurs during the use of a mechanical restraint;**

**8. A process for analyzing and reviewing the use of mechanical restraints for the purpose of reducing reliance upon mechanical restraints;**

**9. Statements indicating that any application of approved mechanical restraints that results in injury or is at variance with an agency’s Division-approved curriculum or procedure shall be reported as an unusual incident. If determined necessary:**

**i. The staff member shall be retrained and shall demonstrate that he or she can safely apply the mechanical restraint before being allowed to again use that restraint; and**

**ii. Disciplinary action shall be taken if the actions were abusive or neglectful.**

**10. Statements indicating that the legal guardian or parent, as applicable, shall be advised by telephone or preferred method of communication within 24 hours of an emergency use of a mechanical restraint not provided for in a behavior support plan; and**

**11. Provisions for addressing the emotional needs of the individual(s) and staff involved in the use of a mechanical restraint. If an individual’s behavior support plan or service plan specifies how their emotional needs shall be addressed, these shall be followed.**

**10:42-3.2 Staff training requirements**

**(a) Only training reviewed and approved by the Division’s Behavior Policy Review Committee may be used.**

**(b) Authorizing personnel shall be trained in the use and authorization requirements of this chapter.**

**(c) All use of mechanical restraints shall be applied and monitored by staff members who have been trained in their use and application, as described in (d) below.**

**(d) Any entity that is approved to use mechanical restraints shall train staff members in the use of procedures specific to the needs of individuals receiving services. Training shall include, but is not limited to:**

**1. Requirements of this chapter for mechanical restraints and the provider’s Division-approved procedures;**

**2. Methods to prevent or minimize the behavior that led to staff intervention as described in the definition of “mechanical restraint”;**

**3. De-escalation techniques;**

**4. Instructions on the implementation of mechanical restraints, including the trainee experiencing being restrained;**

**5. A demonstration by the trainee of the proper use of the authorized mechanical restraint on an annual basis or as necessary;**

**6. Recognition of signs of distress;**

**7. Restraint removal or release as applicable, including the need for continuous reassessment of the ability to lessen or remove the restraint;**

**8. Documentation required pursuant to this chapter; and**

**9. Follow-up procedures, as necessary.**

10:42-[3.2]**3.3** Implementation standard: developmental [centers/private] **centers** **and** **private** licensed facilities for persons with developmental disabilities **licensed** **pursuant to N.J.A.C. 10:47**

(a) Following approval by the [Director, Division of Developmental Disabilities] **Behavior Policy Review Committee**, for use ofmechanical restraint**s**, the following standards shall apply:

1. [Prior to the initial restraint authorization,] **The IDT shall review the client record to identify potential areas of increased risk in the application of mechanical restraints for the individual due to medical conditions, mental health status, physical functioning, or other personal characteristics. If potential areas of increased risk are identified,**  a physician must certify that the technique to be employed is not medically contraindicated for the individual **prior to an initial restraint authorization**.

2. In an emergency situation, the [superintendent, chief executive officer (CEO) or his or her designee] **authorizing personnel** shall be responsible for authorizing the use of **a mechanical** restraint. [The authorized agent must be a qualified mental retardation professional (QMRP) as defined in 42 CFR 483.430(a) and this chapter.]

[3. The CEO shall identify those QMRPs who are responsible to authorize the use of restraint.]

[4.] **3.** (No change in text.)

[5.] **4.** An emergency restraint order shall be effective for not more than [12 consecutive] **one** hour[s]. If a new order is issued, all authorization shall be renewed.

[6.] **5.** [Restraint] **Emergency restraint** orders shall include documentation of the type of mechanical restraint authorized, the length of time to be applied, the reason for restraint, and any special instruction. Each restraint order must be signed and dated by the authorizing [agent] **personnel**.

Recodify existing 7. and 8. as **6.** **and** **7.** (No change in text.)

[9.] **8.** The individual shall be released [from restraint for a period of not less than 10 minutes during each hour of restraint. One limb may be released at a time during the 10-minute period if the person cannot be completely released.] **immediately if he or she appears to be in physical distress or the individual’s behavior no longer presents a risk. In the event the individual cannot be released within 10 minutes, efforts to loosen or change the position of the restraint must be attempted. Documented attempts to release each limb separately for a 10-minute period shall be made.**

[10.] **9.** The use of **mechanical restraints, such as** jumpsuits or open-faced helmets does not require 15-minute checks. The individual does not have to be removed from the restraint for a 10-minuteperiod during each hour since it does not restrict range of motion.

[11.] **10.** (No change in text.)

[12.] **11.** If a [crib] **partially enclosed bed** is used as a safeguarding device, documentation of 15-minute checks shall not be required. [If a crib is used for control purposes, checks shall be required.] It is not necessary to remove the individual from a [crib] **partially enclosed bed** for 10 minutes during each hour of use if [the crib] **it** is used for sleeping. **If a partially enclosed bed is used as a mechanical restraint, 15-minute checks shall be required.**

[13.] **12.** (No change in text.)

[14.] **13.** Whenever[an individual exhibits serious assaultive self-injurious or destructive behavior controlled by use of] **a** mechanical restraint[s] **is used pursuant to N.J.A.C. 10:42-2.2(a)1**, a special meeting of the IDT must be held to review current programming and alternatives. If the recurrence of the behavior **that required the use of the restraint** may be anticipated, a behavior **support** plan shall be **considered, and if appropriate,** developed **or modified to address the behavior**.

[15.] **14.** An unusual incident report shall be completed**,** **if the use of the restraint is unauthorized, improperly implemented, or causes injury to the individual**.

**15**. **When mechanical restraints are used for an individual three times in any contiguous six-month period and are not included in a behavior support plan, the IDT shall forward the results of their review conducted pursuant to N.J.A.C. 10:42-3.4(a)13 to a Division HRC within 15 working days.**

**16**. **A** **Division HRC shall review the pertinent circumstances surrounding the utilization of the emergency mechanical restraints reported by the IDT. The results of the Division HRC review shall be forwarded to the Assistant Commissioner or designee within 10 days.**

10:42-[3.3]**3.4** Implementation standards: community programs for [the developmentally disabled] **persons with developmental disabilities**

[(a) In community programs, the utilization of mechanical restraint shall be considered only for those special programs adequately staffed by trained professional personnel and serving individuals who present a danger to himself or herself or others.]

[(b)] **(a)**  Following approval [of a mechanical restraint program by the Director, Division of Developmental Disabilities] **by the Behavior Policy Review Committee for the use of mechanical restraints**, the following shall apply:

[1. Only a licensed psychologist or physician may authorize each use of mechanical restraint.

2. Prior to or at the time of the initial authorization, a physician must certify that the technique to be employed is not medically contra-indicated for the individual.]

**1. The IDT shall review the client record to identify potential areas of increased risk in the application of mechanical restraints for the individual due to medical conditions, mental health status, physical functioning, or other personal characteristics. If potential areas of increased risk are identified, a physician must certify that the technique to be employed is not medically contraindicated for the individual prior to an initial restraint authorization.**

**2.** **In an emergency situation, the authorizing personnel shall be responsible for authorizing the use of a mechanical restraint.**

3. Whenever possible, the **emergency** restraint order shall be immediately signed by the [license psychologist or physician] **authorizing personnel**. However, the use of mechanical restraint may be authorized over the telephone by the [licensed psychologist or physician] **authorizing personnel** in accordance with the following:

i. Such approval is strictly temporary and the **emergency** restraint order shall be reviewed and signed by the [licensed psychologist or physician] **authorizing personnel** as soon as possible but at least within 12 hours of its application; and

ii. The specific circumstances necessitating approval over the telephone shall be part of the client record and include the name of the [party] **staff member** requesting [or authorizing] the restraint.

4. [Restraint] **An emergency restraint** order[s] shall be effective for not more than [12 consecutive] **one** hour[s]. If a new order is issued, all authorization shall be renewed.

5. [Restraint] **Emergency restraint** orders shall include documentation of the type of mechanical restraint authorized, the length of time to be applied, the reason for restraint, and any special instruction for utilizing the restraint. Each restraint order must be signed and dated by the [licensed psychologist or physician] **authorizing personnel**.

6.-7. (No change.)

8. The individual shall be released[from restraint for a period of not less than 10 minutes during each hour of restraint. One limb may be released at a time for a 10-minute period if the person cannot be completely released] **immediately if he or she appears to be in physical distress or the individual’s behavior no longer presents a risk, unless otherwise specified in the individual’s behavior support plan. In the event the individual cannot be released within 10 minutes, efforts to loosen or change the position of the restraint must be attempted. Documented attempts to release each limb separately for a 10-minute period shall be made.**

9.The use of **mechanical restraints, such as** jumpsuits or open-faced helmets [do] **does** not require 15-minute checks. The individual does not have to be removed from the restraint for a10-minuteperiod during each hour of use since it does notrestrict range of motion.

10.-11. (No change.)

[12. The service provider shall forward a report of the unusual incident to the Regional Assistant Director.

13. Wheneveran individual exhibits serious assaultive, self-injurious**,** or destructive behavior controlled by the use of mechanical restraints, a special meeting of the IDT must be held to review programming and alternatives. If a recurrence of the behavior is anticipated, a behavior plan shall be developed. The IDT shall forward the results of their review to the regional Human Rights Committee within 15 working days.]

**12. An unusual incident report shall be completed if the use of the restraint is unauthorized, improperly implemented, or causes injury to the individual.**

**13. Whenever a mechanical restraint is used pursuant to N.J.A.C. 10:42-2.2(a)1, a special meeting of the IDT must be held to review current programming and alternatives. If the recurrence of the behavior that required the use of the restraint may be anticipated, a behavior support plan shall be considered, and if appropriate, developed or modified to address the behavior.**

**14.** **When mechanical restraints are used for an individual three times in any contiguous six-month period and are not included in a behavior support plan, the IDT shall forward the results of their review conducted pursuant to (a)13 above to a Division HRC within 15 working days.**

[14.] **15**. [The Regional Human Rights Committee] **A** **Division** **HRC** shall review the pertinent circumstance**s** surrounding the utilization of [each application of] **the** emergency mechanical restraints **reported by the IDT**. The results of [this] **the Division HRC** review shall be forwarded to the [Regional Assistant Director, appropriate Regional Administrator, and the Office of Licensing and Inspections] **Assistant** **Commissioner or designee** within 10 days [of the review by the Human Rights Committee].

**10:42-3.5 Quality management**

**(a) Consistent with the entity’s Division-approved policies and procedures established pursuant to N.J.A.C. 10:42-3.1, entities shall establish a process for analyzing restraint utilization and reviewing the use of mechanical restraints for the purpose of reducing reliance upon mechanical restraints, quality improvement, and risk management.**

**1. Each entity that employs mechanical restraints shall have a committee that provides oversight by meeting, reviewing, and documenting the review of the use of mechanical restraints. These reviews shall include examination of trends and patterns of use.**

**2. Entities utilizing mechanical restraints must have a mechanism for reviewing all use and identifying future prevention measures with the goal of reducing or eliminating all use. This can be included in the entity’s overall quality management plan.**

**3. Entities must collect and maintain data on all use of mechanical restraints and regularly analyze such data to identify trends in use by entity, program/service, and individual.**

**4. Entities utilizing mechanical restraints pursuant to N.J.A.C. 10:42-2.2(a)1 or 2 shall provide the Division with data on the use of these restraints. 5. Entities utilizing mechanical restraints must review all incidents related to injury or unauthorized use and implement corrective action. A mechanism to analyze use incidents and determine future prevention measures is required.**

**6. Entities utilizing mechanical restraints are required to maintain documentation of the implementation of teaching strategies or alternate program activities intended to increase the individual’s capacity to utilize and/or respond to more proactive and positive coping strategies that are intended to replace the use of mechanical restraints.**

SUBCHAPTER 4. [MEDICAL/DENTAL] **MEDICAL OR** **DENTAL** EVALUATIONS, EXAMINATIONS**,** OR TREATMENT

10:42-4.1 Use of [mechanical restraint] **safeguarding equipment** for [medical/dental] **medical or dental** evaluations, examinations**,** or treatment

(a) The [physician/dentist] **physician** **or dentist** may use or direct the use of restraint to accomplish a needed evaluation, examination**,** or treatment. Such use shall be documented in the client record.

(b) (No change.)

(c) In the judgment of the [physician/dentist] **physician** **or dentist**, when there is an emergency**,** he or she may use or direct the use of [restraints] **safeguarding equipment** to accomplish a needed evaluation, examination**,** or treatment. Such use shall be documented in the client record.

(d) [Restraints] **Safeguarding equipment** shall be used under the continuous observation of the [physician/dentist] **physician** **or dentist** or [his/her] designee. The individual shall be released upon completion of the necessary procedures.

(e) At no time shall the individual be permitted to remain in [restraints] **safeguarding equipment** for the convenience of staff**,** including pre- and post-treatment.