

# Minnesota Department of Human Services

## Disability Services Division

### ORDER ADOPTING RULES

**Adoption of Rules Governing Positive Support Strategies, Person-Centered Planning, Limits on Use of Restrictive Interventions and Emergency Use of Manual Restraint, and Repeal of Rules Governing Aversive and Deprivation Procedures in *Minnesota Rules*, 9525.2700 to 9525.2810; Revisor's ID No. R-04213.**

### BACKGROUND INFORMATION

1. The Minnesota Department of Human Services has complied with all notice and procedural requirements in Minnesota Statutes, chapter 14; Minnesota Rules, chapter 1400; and other applicable law.
2. The Department adopts the Administrative Law Judge's Report dated April 22, 2015, and incorporates the Report into this Order, except as described below.
3. The Department made modifications to the proposed rule which were approved by the Administrative Law Judge in the Report dated April 22, 2015.
4. In addition to the approved modifications, the Department made the following modifications to the proposed rule after the Report was issued:
  - a. Part 9544.0020, subpart 55, the definition of "trauma-informed care" is deleted. The modifications made by the Department and approved by the Administrative Law Judge removed the portion of the rule that used the term "trauma-informed care." The rule as modified does not use the term "trauma-informed care;" therefore, the definition is not necessary.
  - b. In Part 9544.0050, subpart 2, the modification approved by the Administrative Law Judge reads, "...document a procedure approved under subpart 1 in writing..." This subpart is now modified to read, "...document in writing a procedure approved under subpart 1..." This modification provides clarity and does not change the meaning of the rule.
  - c. In Part 9544.0080, subpart 1, the modification approved by the Administrative Law Judge reads, "The notice must inform the person receiving services of their rights under Minnesota Statutes, section 245D.04 and this chapter." This subpart is now modified to read, "The notice must inform the person receiving services of the person's rights under this chapter and Minnesota Statutes, section 245D.04." This modification provides clarity and does not change the meaning of the rule.
  - d. In Part 9544.0090, subpart 1, "Previous equivalent training approved by the commissioner fulfills these requirements." is deleted. This is not a substantive modification, but rather a clerical clarification. This sentence appeared in the proposed rules and was inadvertently omitted from the text of the modifications approved by the Administrative Law Judge. The sentence should have appeared in the modifications and been struck-out to indicate its deletion. This modification clarifies that the sentence is not included in the rules as modified and approved.
  - e. In Part 9544.0090, subpart 1, item E, the modification approved by the Administrative Law Judge reads, "...according to the requirements of Minnesota Statutes, section

245D.061.” This item is now modified to read, “...according to Minnesota Statutes, section 245D.061.” This modification provides clarity and does not change the meaning of the rule.

f. In Part 9544.0090, subpart 2, item A, subitem 4, the modification approved by the Administrative Law Judge reads, “...the person and their support team.” This subitem is now modified to read, “...the person and the person’s support team.” This modification clarifies what “their” refers to, and does not change the meaning of the rule.

g. In Part 9544.0090, subpart 2, item B, subitem 2, the modification approved by the Administrative Law Judge reads, “...and how to address it in their organizations...” This subitem is now modified to read, “...and how to address person-centered thinking and practices in the organization...” This modification clarifies what “it” refers to, and does not change the meaning of the rule.

h. In Part 9544.0130, subpart 3, item B, subitem 2, the modification approved by the Administrative Law Judge reads, “documentation of methods tried...” This subitem is now modified to read, “documentation of methods the provider has tried...” This modification provides clarity and does not change the meaning of the rule.

i. In Part 9544.0130, subpart 3, item B, subitem 8, the modification approved by the Administrative Law Judge reads, “...documentation of the approval of the person’s expanded support team...” This subitem is now modified to read, “...documentation of approval by the person’s expanded support team of the submission to the committee of the request for use of a prohibited procedure ...” This modification clarifies what the expanded support team is approving, and does not change the meaning of the rule.

j. Throughout the rule, numbering of subparts, items and subitems has been adjusted as necessary due to the modifications made to the proposed rule.

These additional modifications are reasonable and do not make the rules substantially different than the proposed rules. These additional changes were approved by the Chief Administrative Law Judge on June 11, 2015.

5. The rules are needed and reasonable.

### ORDER

The above-named rules, in the form published in the State Register on January 12, 2015, with the modifications as indicated in the Revisor’s draft, file number RD4213, dated 06/05/15, are adopted under my authority in Minnesota Statutes, section 245.8251, subd. 1.

June 19, 2015  
Date

  
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Lucinda E. Jesson, Commissioner  
Department of Human Services