

**DHS DIVISION OF LICENSING  
Self-Monitoring Checklist**

**Home and Community-Based Services Licensed under Minnesota Statutes, chapter 245D**

## **EMERGENCY USE OF MANUAL RESTRAINT**

License holders must have a policy and procedures for responding to all incidents as defined in Minnesota Statutes, section 245D.02, subdivision 11 and must train their staff on this policy and procedures. License holders must determine if their program will allow for the emergency use of manual restraint, sometimes referred by the abbreviation EUMR. If a license holder does not allow for the emergency use of a manual restraint, they must determine what alternative measures will be taken to protect the health and safety of the persons they serve during crisis situations. If a license holder does allow for the emergency use of a manual restraint, they must train their staff according to 245D.09, which includes the types of restraint a provider allows their staff to perform and how to properly report emergency use of manual restraints.

The emergency use of manual restraints, as found in sections 245D.06, subdivision 8 and 245D.061, supersedes requirements identified in Minnesota Rules, parts 9525.2700, 9525.2720, and 9525.2740 – 9525.2780, frequently referred to as Rule 40.

### **Definitions:**

"Aversive procedure" means the application of an aversive stimulus contingent upon the occurrence of a behavior for the purposes of reducing or eliminating the behavior [section 245D.02, subd. 2b].

"Aversive stimulus" means an object, event, or situation that is presented immediately following a behavior in an attempt to suppress the behavior. Typically, an aversive stimulus is unpleasant and penalizes or confines [section 245D.02, subd. 2c].

"Chemical restraint" means the administration of a drug or medication to control the person's behavior or restrict the person's freedom of movement and is not a standard treatment or dosage for the person's medical or psychological condition [section 245D.02, subd. 3b].

"Coordinated service and support plan addendum" [CSSP addendum] means the documentation that this chapter requires of the license holder for each person receiving services [section 245D.02, subdivision 4c].

*The person's support team or expanded support team must participate in the development of the CSSP addendum. The CSSP addendum is not a single document. It is multiple documents or documentation the license holder is required to develop that identify how services will be delivered in order to meet a person's identified needs and desired outcomes.*

*Within the scope of services and the responsibilities assigned to the license holder in the CSSP, the CSSP addendum may include the following elements:*

- *Documentation when the person's rights have been restricted, including justification and the plan for full restoration of rights [section 245D.04, subdivision 3, paragraph (c)]*
- *Documentation of the health needs procedures, including psychotropic medication monitoring [sections 245D.04, subdivision 3, paragraph (c) and 245D.051]*
- *Reports of incidents [section 245D.06, subdivision 1]*
- *Documentation of the positive support transition plan, when required [section 245D.06, subdivision 8]*
- *Individual abuse prevention plan (IAPP) [section 245A.65, subdivision 2, paragraph (b)]*
- *Assessments and service planning [sections 245D.07, subdivision 2 and 245D.071, subdivision 3]*

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- *Documentation of the methods to be used to support a person's identified needs and accomplish identified outcomes [section 245D.071, subdivisions 3 – 5] including:*
  - Documentation of any continuous use of permitted actions and procedures [section 245D.06, subdivision 7, paragraphs (b) and (c)] and*
  - Documentation of the support team's review of emergency use of manual restraint and any changes to the person's service plan [section 245D.061, subdivision 7]*
- *Progress reports and recommendations [sections 245D.07, subdivision 3 and 245D.071, subdivision 5]*

"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. Oftentimes 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 [section 245D.02, subd. 5a].

"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 [section 245D.02, subd. 8a].

"Expanded support team" means the members of the support team defined in subdivision 34 and a licensed health or mental health professional or other licensed, certified, or qualified professionals or consultants working with the person and included in the team at the request of the person or the person's legal representative [section 245D.02, subd. 8b].

"Manual restraint" means physical intervention intended to hold a person immobile or limit a person's voluntary movement by using body contact as the only source of physical restraint [section 245D.02, subd. 15a].

"Mechanical restraint" means the use of devices, materials, or equipment attached or adjacent to the person's body, or the use of practices that are intended to restrict freedom of movement or normal access to one's body or body parts, or limits a person's voluntary movement or holds a person immobile as an intervention precipitated by a person's behavior. The term applies to the use of mechanical restraint used to prevent injury with persons who engage in self-injurious 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.

Mechanical restraint does not include the following:

- (1) devices worn by the person that trigger electronic alarms to warn staff that a person is leaving a room or area, which do not, in and of themselves, restrict freedom of movement; or
- (2) the use of adaptive aids or equipment or orthotic devices ordered by a health care professional used to treat or manage a medical condition. [section 245D.02, subd. 15b].

"Seclusion" means (1) removing a person involuntarily to a room from which exit is prohibited by a staff person or a mechanism such as a lock, a device, or an object positioned to hold the door closed or otherwise prevent the person from leaving the room; or (2) otherwise involuntarily removing or separating a person from an area, activity, situation, or social contact with others and blocking or preventing the person's return [section 245D.02, subd. 29].

"Time out" means the involuntary removal of a person for a period of time to a designated area from which the person is not prevented from leaving. For the purpose of this chapter, "time out" does not mean voluntary removal or self-removal for the purpose of calming, prevention of escalation, or de-escalation of behavior; nor does it mean taking a brief break or rest from an activity for the purpose of providing the person an opportunity to regain self-control. [section 245D.02, subd. 34a].

**Key**

Language that is contained in [brackets] or *italics* is provided for clarification.

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**EMERGENCY USE OF MANUAL RESTRAINTS**

LAW / RULE CITE	LICENSING STANDARD	RECORD 1	RECORD 2	RECORD 3	NOTES
<a href="#">245D.06</a> , Subd. 5	<p><b><u>Prohibited Procedures</u></b>  <b>The license holder ensured that the use of aversive and deprivation procedures were not used as a substitute for adequate staffing, as punishment, or for staff convenience.</b></p>				
	<p>The license holder was prohibited from using</p> <ul style="list-style-type: none"> <li>▪ chemical restraints,</li> <li>▪ mechanical restraints,</li> <li>▪ manual restraints,</li> <li>▪ time out,</li> <li>▪ seclusion, or</li> <li>▪ any other aversive or deprivation procedure,</li> </ul> <p>as a substitute for adequate staffing, for a behavioral or therapeutic program to reduce or eliminate behavior, as punishment, or for staff convenience.</p>				
<a href="#">245D.06</a> , Subd. 6	<p><b><u>Restricted Procedures</u></b>  <b>The license holder ensured that the procedures implemented were in compliance with governing standards.</b></p>				
245D.06, Subd. 6, (a)	<p>The following procedures were allowed when the procedures were implemented in compliance with the standards governing their use as identified in clauses (1) to (3).</p> <p>Allowed but restricted procedures included:</p> <p>(1) permitted actions and procedures subject to the requirements in subdivision 7 [Permitted actions and procedures];</p> <p>(2) procedures identified in a positive support transition plan subject to the requirements in subdivision 8 [Positive support transition plan]; or</p> <p>(3) emergency use of manual restraint subject to the requirements in section <a href="#">245D.061</a> [Emergency Use of Manual Restraint].</p>				

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245D.06, Subd. 6, (b)	<p>A restricted procedure identified in paragraph (a) must not have:</p> <p>(1) been implemented with a child in a manner that constitutes sexual abuse, neglect, physical abuse, or mental injury, as defined in section <a href="#">626.556, subdivision 2</a>;</p>				
	<p>(2) been implemented with an adult in a manner that constitutes abuse or neglect as defined in section <a href="#">626.5572, subdivisions 2</a> or 17;</p>				
	<p>(3) been implemented in a manner that violates a person's rights and protections identified in section <a href="#">245D.04</a>;</p>				
	<p>(4) restricted a person's normal access to a nutritious diet, drinking water, adequate ventilation, necessary medical care, ordinary hygiene facilities, normal sleeping conditions, necessary clothing, or any protection required by state licensing standards or federal regulations governing the program;</p>				
	<p>(5) denied the person visitation or ordinary contact with legal counsel, a legal representative, or next of kin;</p>				
	<p>(6) been used for the convenience of staff, as punishment, or as a substitute for adequate staffing, or as a consequence if the person refused to participate in the treatment or services provided by the program;</p>				
	<p>(7) used prone restraint;</p> <p>For purposes of this section, "prone restraint" means use of manual restraint that places a person in a face-down position. Prone restraint does not include brief physical holding of a person, who during an emergency used of manual restraint, rolls into a prone position, if the person is restored to a standing, sitting, or side-lying position as quickly as possible.</p>				
	<p>(8) applied back or chest pressure while a person was in a prone position as identified in clause (7), supine position, or side-lying position; or</p>				
	<p>(9) been implemented in a manner that is contraindicated for any of the person's known medical or psychological limitations.</p>				

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245D.06, Subd. 7	<b>Permitted Actions and Procedures</b> Instructional techniques and intervention procedures may be used on an intermittent or continuous basis. When used on a continuous basis the license holder ensured it was addressed in the CSSP addendum.				
245D.06, Subd. 7, (a)	Use of the instructional techniques and intervention procedures as identified in paragraphs (b) and (c) [see below] was permitted when used on an intermittent or continuous basis.  When used on a continuous basis, it was addressed in a person's CSSP addendum as identified in sections 245D.07 and 245D.071.				
245D.06, Subd. 7, (b)	Physical contact or instructional techniques used  — the least restrictive alternative possible to meet the needs of the person and — may have been used:  (1) to calm or comfort a person by holding that person with no resistance from that person;  (2) to protect a person known to be at risk of injury due to frequent falls as a result of a medical condition;  (3) to facilitate the 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;  (4) to block or redirect a person's limbs or body without holding the person or limiting the person's movement to interrupt the person's behavior that may result in injury to self or others with less than 60 seconds of physical contact by staff; or  (5) to redirect a person's behavior when the behavior does not pose a serious threat to the person or others and the behavior is effectively redirected with less than 60 seconds of physical contact by staff.				

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245D.06, Subd. 7, (c)	Restraint was used as an intervention procedure to: <ul style="list-style-type: none"> <li data-bbox="258 347 1144 440">(1) allow a licensed health care professional to safely conduct a medical examination or to provide medical treatment ordered by a licensed health care professional;</li> <li data-bbox="258 488 1144 548">(2) assist in the safe evacuation or redirection of a person in the event of an emergency and the person is at imminent risk of harm; or</li> <li data-bbox="258 597 1144 657">(3) position a person with physical disabilities in a manner specified in the person's CSSP addendum.</li> </ul> Any use of manual restraint as allowed in this paragraph complied with the restrictions identified in [245D.06,] subdivision 6, paragraph (b).				
245D.06, Subd. 7, (d)	Use of adaptive aids or equipment, orthotic devices, or other medical equipment ordered by a licensed health professional to treat a diagnosed medical condition do not in and of themselves constitute the use of mechanical restraint.				
<b>245D.06, Subd. 8</b>	<b><u>Positive Support Transition Plan (PSTP)</u> The license holder developed a PSTP for a person who required intervention to maintain safety when the person's behavior posed immediate risk of harm to self or others. This plan phased out existing procedures prohibited under chapter 245D.</b>				
245D.06, Subd. 8, (a)	The license holder developed a positive support transition plan <ul style="list-style-type: none"> <li data-bbox="258 1214 1144 1240">___ on the forms and in the manner prescribed by the commissioner</li> <li data-bbox="258 1243 1144 1269">___ for a person who required intervention in order to maintain safety</li> <li data-bbox="258 1273 1144 1333">___ when it was known that the person's behavior posed an immediate risk of physical harm to self or others.</li> </ul>				

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	<p>This positive support transition plan phased out any existing plans for the emergency or programmatic use of restrictive interventions prohibited under this chapter within the following timelines:</p> <p>(1) for persons receiving services from the license holder before January 1, 2014, the plan was developed and implemented by February 1, 2014, and phased out no later than December 31, 2014;and</p> <p>(2) for persons admitted to the program on or after January 1, 2014, the plan was developed and implemented within 30 calendar days of service initiation and phased out no later than 11 months from the date of plan implementation.</p> <p><i>[The Positive Support Transition Plan (DHS-6810) and Positive Support Transition Plan Review (DHS-6810A) are available at mn.gov/dhs.]</i></p>				
245D.06, Subd. 8, (b)	<p>The commissioner has limited authority to grant approval for the emergency use of procedures identified in subdivision 6 that had been part of an approved positive support transition plan when a person is at imminent risk of serious injury as defined in section 245.91, subdivision 6, due to self-injurious behavior and the following conditions are met:</p> <p>(1) the person's expanded support team approves the emergency use of the procedures; and</p> <p>(2) the interim review panel established in section 245.8251, subdivision 4, recommends commissioner approval of the emergency use of the procedures.</p>				
245D.06, Subd. 8, (c)	<p>Written requests for the emergency use of the procedures were ___developed and ___submitted to the commissioner by the ___designated coordinator with ___input from the person's expanded support team ___in accordance with the requirements set by the interim review panel, in addition to the following:</p> <p>(1) a copy of the person's current positive support transition plan and copies of each positive support transition plan review containing data on the progress of the plan from the previous year;</p>				

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	(2) documentation of a good faith effort to eliminate the use of the procedures that had been part of an approved positive support transition plan; (3) justification for the continued use of the procedures that identified the imminent risk of serious injury due to the person's self-injurious behavior if the procedures were eliminated; (4) documentation of the clinicians consulted in creating and maintaining the positive support transition plan; and (5) documentation of the expanded support team's approval and the recommendation from the interim panel required under paragraph (b).				
245D.06, Subd. 8, (b)	A copy of the ___ written request, ___ supporting documentation, and ___ the commissioner's final determination on the request was maintained in the person's service recipient record.				
<b><u>245D.061,</u></b> Subd. 1	<b><u>Standards for Emergency Use of Manual Restraints</u></b> <b>The license holder ensured that emergency use of manual restraints complied with requirements of 245D and the license holder's policies and procedures.</b>				
	The license holder ensured that emergency use of manual restraints complied with the requirements of ___ this chapter and ___ the license holder's policy and procedures as required under subdivision 9.				
<b>245D.061,</b> Subd. 2	<b><u>Conditions for Emergency Use of Manual Restraints</u></b> <b>The license holder met the required conditions when implementing emergency use of manual restraint.</b>				
	Emergency use of manual restraint met the following conditions: (1) immediate intervention was needed to protect the person or others from imminent risk of physical harm; and (2) the type of manual restraint used was the least restrictive intervention to eliminate the immediate risk of harm and effectively achieve safety. The manual restraint ended when the threat of harm ended.	Date of EUMR:	Date of EUMR:	Date of EUMR:	

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245D.061, Subd. 4	<p><b><u>Monitoring Emergency Use of Manual Restraint</u></b>  <b>The license holder monitored health and safety of the person during emergency use of manual restraint.</b></p>				
	<p>The license holder monitored a person's health and safety during an emergency use of a manual restraint.</p> <p>Staff monitoring the procedure were not the staff implementing the procedure when possible.</p> <p>The license holder completed a monitoring form, approved by the commissioner, for each incident involving the emergency use of a manual restraint.</p>				
245D.06, Subd. 1; 245D.061, Subd. 5	<p><b><u>Reporting Emergency Use of Manual Restraint Incident</u></b>  <b>The staff person who implemented the emergency use of a manual restraint reported the use of the procedure.</b></p>				
245D.06, Subd. 1, (h)	<p>The license holder verbally reported the emergency use of manual restraint of a person as required in paragraph (b) within 24 hours of the occurrence.</p> <p>The license holder ensured the written report and internal review of all incident reports of the emergency use of manual restraints were completed according to the requirements in section 245D.061 or successor provisions.</p>				
245D.061, Subd.5, (a)	<p>Within ___three calendar days after an emergency use of manual restraint, the staff person who implemented the emergency use must ___report in writing ___to the designated coordinator the following information about the emergency use:</p> <p>(1) the staff and persons receiving services who were involved in the incident leading up to the emergency use of manual restraint;</p> <p>(2) a description of the physical and social environment, including who was present before and during the incident leading up to the emergency use of manual restraint;</p>	Date of Report:	Date of Report:	Date of Report:	

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	(3) a description of what less restrictive alternative measures were attempted to de-escalate the incident and maintain safety before the manual restraint was implemented that identifies when, how, and how long the alternative measures were attempted before manual restraint was implemented;				
	(4) a description of the mental, physical, and emotional condition of the person who was restrained, and other persons involved in the incident leading up to, during, and following the manual restraint;				
	(5) whether there was any injury to the person who was restrained or other persons involved in the incident, including staff, before or as a result of the use of manual restraint;				
	(6) whether there was a debriefing with the staff, and, if not contraindicated, with the person who was restrained and other persons who were involved in or who witnessed the restraint, following the incident and the outcome of the debriefing.				
	If the debriefing was not conducted at the time the incident report was made, the report should identify whether a debriefing is planned; and				
	(7) a copy of the report was maintained in the person's service recipient record.				
245D.061, Subd.5, (a)	Each single incident of emergency use of manual restraint was reported separately.				
	For the purposes of this subdivision, an incident of emergency use of manual restraint is a single incident when the following conditions have been met:				
	(1) after implementing the manual restraint, staff attempted to release the person at the moment staff believed the person's conduct no longer posed an imminent risk of physical harm to self or others and less restrictive strategies were implemented to maintain safety;				
	(2) upon the attempt to release the restraint, the person's behavior immediately re-escalated; and				

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	(3) staff immediately re-implemented the restraint in order to maintain safety.				
<b>245D.061, Subd. 6</b>	<b>Internal Review</b> <b>The license holder completed an internal review of the emergency use of manual restraint</b>				
245D.061, Subd.6, (a)	Within ___ five working days of the emergency use of manual restraint, the license holder ___ completed and ___ documented an internal review of each report of emergency use of manual restraint.	Date of Int. Review:	Date of Int. Review:	Date of Int. Review:	
	The review included an evaluation of whether:				
	(1) the person's service and support strategies developed according to sections <a href="#">245D.07</a> and <a href="#">245D.071</a> need to be revised;				
	(2) related policies and procedures were followed;				
	(3) the policies and procedures were adequate;				
	(4) there is a need for additional staff training;				
	(5) the reported event is similar to past events with the persons, staff, or the services involved; and				
	(6) there is a need for corrective action by the license holder to protect the health and safety of persons.				
245D.061, Subd.6, (a)	Based on the results of the internal review, the license holder ___ developed, ___ documented, and ___ implemented a corrective action plan for the program designed to correct current lapses and prevent future lapses in performance by individuals or the license holder, if any.				
	The corrective action plan, if any, was implemented within 30 days of the internal review being completed.	Date Implemented:	Date Implemented:	Date Implemented:	
	The license holder maintained a copy of the internal review and the corrective action plan, if any, in the person's service recipient record.				

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245D.061, Subd. 7	<p><b><u>Expanded Support Team Review</u></b>  <b>The license holder consulted with the expanded support team after completion of the internal review.</b></p>				
245D.061, Subd.7, (a)	<p>Within ___five working days after the completion of the internal review required in subdivision 6, the license holder consulted with the expanded support team following the emergency use of manual restraint to:</p> <p>(1) discuss the incident reported in subdivision 5, to define the antecedent or event that gave rise to the behavior resulting in the manual restraint and identified the perceived function the behavior served; and</p> <p>(2) determined whether the person's CSSP addendum needs to be revised according to sections <a href="#">245D.07</a> and <a href="#">245D.071</a> to positively and effectively help the person maintain stability and to reduce or eliminate future occurrences requiring emergency use of manual restraint.</p>	Date of Consultation:	Date of Consultation:	Date of Consultation:	
245D.061, Subd.7, (b)	The license holder maintained a written summary of the expanded support team's discussion and decisions in the person's service recipient record.				
245D.061, Subd. 8	<p><b><u>External Review and Reporting</u></b>  <b>The license holder submitted required information to the Department of Human Services and the Office of the Ombudsman for Mental Health and Developmental Disabilities.</b></p>				
	<p>Within ___five working days of the expanded support team review, the license holder must submit the following to the ___Department of Human Services, and the ___Office of the Ombudsman for Mental Health and Developmental Disabilities, as required under section <a href="#">245.94, subdivision 2a</a>:</p> <p>(1) the report [from staff person to the designated coordinator] required under subdivision 5;</p> <p>(2) the internal review and the corrective action plan required under subdivision 6; and</p>	Date of Submission:	Date of Submission	Date of Submission	

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	<p>(3) the summary of the expanded support team review required under subdivision 7.</p> <p><i>[The external report to DHS and the Ombudsman must be completed through submission of the Behavior Intervention Report Form (BIRF). This on-line report form can be found at <a href="http://dhs.state.mn.us/provider">dhs.state.mn.us/provider</a>.]</i></p>				
<b>245D.061, Subd. 9</b>	<p><b><u>Emergency Use of Manual Restraints Policy and Procedures</u></b>  <b>The license holder developed, documented, and implemented a policy and procedures promoting service recipient rights and protecting health and safety during the emergency use of manual restraints.</b></p>				
	<p>The license holder ___developed, ___documented, and ___implemented a policy and procedures that promoted service recipient rights and protected health and safety during the emergency use of manual restraints.</p> <p>The policy and procedures complied with the requirements of this section and specified the following:</p> <p>(1) a description of the positive support strategies and techniques staff used to attempt to de-escalate a person's behavior before it poses an imminent risk of physical harm to self or others;</p> <p>(2) a description of the types of manual restraints the license holder allows staff to use on an emergency basis, if any. If the license holder will not allow the emergency use of manual restraint, the policy and procedure identified the alternative measures the license holder will require staff to use when a person's conduct poses an imminent risk of physical harm to self or others and less restrictive strategies would not achieve safety;</p> <p>(3) instructions for safe and correct implementation of the allowed manual restraint procedures;</p> <p>(4) the training that staff completed and the timelines for completion, before they may implement an emergency use of manual restraint. In addition to the training on this policy and procedure and the orientation and annual training required in section <a href="#">245D.09</a>, subdivision 4, the training for emergency use of manual restraint incorporated the following subjects:</p>				

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	(i) alternatives to manual restraint procedures, including techniques to identify events and environmental factors that may escalate conduct that poses an imminent risk of physical harm to self or others;				
	(ii) de-escalation methods, positive support strategies, and how to avoid power struggles;				
	(iii) simulated experiences of administering and receiving manual restraint procedures allowed by the license holder on an emergency basis;				
	(iv) how to properly identify thresholds for implementing and ceasing restrictive procedures;				
	(v) how to recognize, monitor, and respond to the person's physical signs of distress, including positional asphyxia;				
	(vi) the physiological and psychological impact on the person and the staff when restrictive procedures are used;				
	(vii) the communicative intent of behaviors; and				
	(vii) relationship building;				
	(5) the procedures and forms to be used to monitor the emergency use of manual restraints,				
	including what was monitored and the frequency of monitoring per each incident of emergency use of manual restraint,				
	and the person or position who is responsible for monitoring the use;				
	(6) the instructions, forms, and timelines required for completing and submitting an incident report by the person or persons who implemented the manual restraint; and				
	(7) the procedures and timelines for conducting the internal review and the expanded support team review,				
	and the person or position responsible for completing the reviews and for ensuring that corrective action is taken or the person's CSSP addendum is revised, when determined necessary.				

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