DHS Respect and Dignity Practices Statement

Ensuring the Minnesotans we care for are treated with respect and dignity is a key element of our agency's mission. Practices around seclusion and restraint have not always been consistent with these principles. The Minnesota Department of Human Services, as an agency with responsibilities in the administration and oversight of services, and as a provider of services, is committed, in words and in actions, to achieving these goals.

To that end, it is our goal to prohibit procedures that cause pain, whether physical, emotional or psychological, and prohibit use of seclusion and restraints for all programs and services licensed or certified by the department. It is our expectation that service providers will seek out and implement therapeutic interventions that reflect best practices.

We commit not only to following legal and regulatory requirements limiting the use of seclusion and restraint as a provider of service, but also to creating a broader culture that honors the trust placed in us both as a provider and as a department responsible for the administration and oversight of many of the services that support citizens. Such a culture will help the agency and providers regulated by the agency adapt to best practices that continue to evolve over time.

In December 2011, the Jensen Settlement Agreement[1] set a new course toward best practices in how people with disabilities are treated. The Jensen Agreement resulted from unhealthy conditions in the Minnesota Extended Treatment Options (METO) program. One key provision of the Jensen Agreement was a requirement that the Department of Human Services (DHS or Department) empower a committee to examine the issues of seclusion and restraint as they pertain to persons with developmental disabilities. In particular, the Agreement called for a review, and possible update, of a DHS administrative rule commonly known as Rule 40. However, while abiding by the Jensen's Agreement directive on Rule 40, it is DHS's belief that there is a great opportunity to create broader policies on positive supports, prohibited practices, training, monitoring and reporting across the programs we regulate. Therefore, with recognition that there are some providers and advocacy groups whose opinions differ, DHS, along with a growing number of our clients, advocates, and providers, support a change in Department policy to prohibit procedures that cause pain, whether physical, emotional or psychological and prohibit programmatic use of seclusion and restraints for all programs and services licensed or certified by the Department.

Each person comes to the system with unique needs, and may have co-occurring conditions that draw on multiple services. Best practice standards have changed and will continue to evolve. Punishment is not only non-therapeutic but the consequences of punishment are counter to therapeutic intervention and are unacceptable. Consistent use of best practices will lead to enhanced effectiveness in services and better outcomes for people.

DEPARTMENT COMMITMENT TO PRINCIPLES

It is the intent of the Department of Human Services to adopt the following principles for all programs and services licensed or certified by the Department:

- Prohibit techniques that include any use of restraint, punishment, chemical restraint, seclusion, time out, deprivation practices or other techniques that induces physical, emotional pain or discomfort.

[1] *The true measure of a civilized and democratic society is the way each of us treats those individuals most in need and the most vulnerable amongst us. That, of course, means that all people are entitled to be treated with patience, dignity, and respect, and to be extended kindness, whoever they may be, regardless of their social standing in the community and especially if they have special needs. Jensen Settlement Agreement December 5, 2011*

- Emergency use of restraint can only occur if a person's *"conduct poses an imminent risk of physical harm to self or others and less restrictive strategies would not achieve safety. Client refusal to receive/participate in treatment shall not constitute an emergency."*[2] All use of emergency restraint will require monitoring and oversight by the appropriate regulatory authority, advocacy and expert clinical resources and will be tracked and analyzed. Emergency use of restraint and seclusion may need to be continued in the Minnesota Security Hospital until alternatives are in place.
- DHS is committed to protecting the rights of all individuals in accordance with applicable Bills of Rights.[3]
- Standards for services transcend diagnostic labels, although must remain sensitive to the unique needs of each person and their presenting conditions.
- DHS, with consumer and stakeholder input, will create a common set of standards across all providers which include:
    - Positive supports and practices
    - Trauma informed care practices
    - Person centered thinking/planning, and
    - Analysis and review of all use of emergency restraints or emergency seclusion.
- DHS will appropriately adjust and align resources to make these changes.

IMPLEMENTATION

- DHS will examine the feasibility and rule making authority to adopt best practices in person-centered planning and positive supports.
- DHS will consult with advocates, providers, case managers, persons receiving services and their families and consultants who have demonstrated success and expertise on best practices.
- DHS will disseminate this position statement widely.
- DHS will adopt and promote the use of positive practices, social supports and the development of plans consistent with the most integrated setting and person centered planning.[4]
- DHS will implement strategies to achieve the agreed upon practices in the most expeditious manner.
- DHS will include consumers and stakeholders in the phased development of the statute, rule, bulletins, waiver plans/amendments and any policy or practices manual that addresses these standards.
- DHS will undertake to achieve these objectives by January 15, 2015.
- DHS will seek the inclusion of these concepts in the State Olmstead Plan and its implementation.

The Minnesota Legislature authorized the Department to develop new provider and service standards for all home and community based services. DHS plans to use these new standards, section 245D that will replace 245B licensing standards, as a method to ensure consistency in the principles outlined in this document across all MN Department of Human Service licensed or certified providers who deliver home and community based services through the five Minnesota home and community based waiver programs, and other services previously licensed under 245B. In addition, these standards will meet guidelines from the Centers for Medicare and Medicaid Services, which directed all states to create standards on safeguards and regulation of seclusion and restraints and oversight activities in its home

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[2] Jensen Settlement Attachment A

[3] Bills of Rights: Minnesota Patient Bill of Rights (Hospitals), Resident Bill of Rights (Nursing Homes), Minnesota Home Care Bills of Rights including for Assisted Living Clients and Home Care Services, Minnesota Hospice Bill of Rights, Combined Bill of Rights for Hospice, Minnesota Outpatient Surgical Center Patient's Bill of Rights, Bill of Rights For Wards And Protected Persons

[4] To study, review and advise the Department on how to modernize Rule 40 to reflect current best practices, including, but not limited to the use of positive and social behavioral supports, and the development of placement plans consistent with the principle of the "most integrated setting" and "person centered planning ... Jensen Settlement Agreement

and community based service waiver programs.[5]

Each administration within the Department with program and policy responsibility for services will evaluate its service regulations against the principles outlined in this document and the recommendations from the Advisory Committee for the modernization of Rule 40, and determine what changes are necessary to assure consistency with the principles adopted by the DHS.

Dated: _____

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Lucinda Jesson
Commissioner, Minnesota Department of Human Services

[5] CMS Appendix G-2: Safeguards Concerning Restraints and Restrictive Interventions