

External Program Review Committee Emergency use of manual restraint (EUMR) subcommittee agenda

Date of meeting: Feb. 27, 2019, from 8:30 to 9:30 a.m. (rescheduled from Feb. 8)

DSD liaison: Stacie Enders

Location: Elmer L. Andersen Human Services Building, Room 2223, 540 Cedar St., St. Paul 55101. Most members of the committee, however, will participate through an online video conference line.

Question-and-answer session

The public is welcome and encouraged to ask questions at the beginning of the meeting.

Open discussion

- The committee will review the attached instruction manual on pages 2-11 to see if updates are needed.
- Committee members are welcome to bring up topics for discussion.

Closed session

The remainder of the meeting will be closed so that committee members may discuss any successes or problems they have encountered while working with providers to reduce the use of manual restraint. The discussion will be focused on specific teams, individual people and ways to support their unique needs. The committee will also review data and documents that are specific to individual people (such as behavior intervention reporting forms), in an effort to determine workloads, who needs guidance and what specific guidance licensed providers might need. This meeting will be closed as required by Minn. Stat. § 13D.05, subd. 2(a)(3), to conduct business requiring discussion of health, medical, welfare or mental health data that is classified as not public under the Minnesota Government Data Practices Act.

Reviewing and responding to EUMR reports

This manual is intended to help External Program Review Committee subcommittee members work through the process of reviewing and responding to reports of Emergency Use of Manual Restraint. This document is only meant to be a general guide, and committee members may use their professional judgement as needed.

If a committee member comes across a concern that cannot be addressed by the guidelines presented in this document, please contact the committee coordinator to add this concern to a meeting agenda.

EPRC members

Stephanie Schaefer
Melanie Eidsmoe
Danielle Bishop
Jodi Greenstein
Mary Piggott
Dan Baker

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Commissioner's authorized representative

Jeff Schiff

Acronyms that might be used in this document

- BIRF: Behavioral Intervention Report Form, [DHS form 5148](#)
- CABC: Context, Antecedent, Behavior, Consequence
- CCM: County Case Manager
- DHS: Minnesota Department of Human Services
- DSD: Disability Services Division
- EPRC: External Program Review Committee
- EUMR: Emergency Use of Manual Restraint
- FBA: Functional Behavior Assessment
- HCBS: Home and Community-Based Services
- IRP: Interim Review Panel (Predecessor to the EPRC)
- MDH: Minnesota Department of Health
- PS Manual: Guidelines for Positive Supports in DHS-Licensed Settings, [DHS form 6810C](#)
- PSR: Positive Support Rule
- PSTP: Positive Support Transition Plan, [DHS form 6810](#)
- RA or Request: Request for Authorization of the Emergency Use of Procedures, [DHS form 6810D](#)

What are EPRC members responsible for?

EPRC members must review each reported emergency use of manual restraint. Members will evaluate the license holder's response to the emergency use for the person. If a change is needed to reduce the frequency or duration of future uses by the license holder, the member must provide guidance to the license holder about its response.

EPRC members will not be responsible for monitoring and providing guidance on strategies to reduce manual restraint when another DHS team is already serving that function.

Workload

Whenever a provider reaches the threshold where a PSTP is required after four EUMR in 180 days, an EPRC member will be assigned to monitor the person's BIRF records. While members will receive a copy of all EUMR BIRFs submitted for the people assigned to them, each member is only required to review the documentation for four people each month; reviewing more cases is optional. After thoroughly reviewing the information, committee members must determine if follow-up is necessary on any documentation that was reviewed. When selecting which cases to review, the commissioner's delegated representative would like committee members to give first priority to:

- People served who are being restrained the most frequently
- People served who are being restrained for more than 30 minutes at a time.

It is expected by the end of each year that committee members will provide guidance to all license holders assigned to them who are demonstrating an inadequate response to the emergency use of manual restraint.

Definition of INADEQUATE: Documentation does not meet the professional standards of practice outlined in [Minn. R. 9544.0030, subp. 4](#).

Cases will be assigned by region when possible to reduce the amount of travel time required by committee members. Multiple people served by the same provider will be assigned to the same committee member to ensure consistency and ease for provider organizations and the committee member.

Prone Restraint

If a member discovers that prone restraint was used, they should promptly contact the committee coordinator so that follow up can be assigned by the DHS Positive Supports team.

Distinguishing the Responsibilities of Committee Members from the Responsibilities of Licensing

The committee will be responsible for enforcing the rules set in [Minn. R. 9544.0130](#) and any further guidelines outlined in this manual. All other rules and statutes are the responsibility of the Licensing Division or other designated authorities.

If a committee member learns that a provider is not complying with rule or statute, Licensing would like committee members to let the provider know and to help him or her come into compliance with guidelines. Licensing would only like to be contacted when either:

- Committee members suspect abuse, neglect, maltreatment, exploitation, etc.
- Repeated attempts to help the provider have not resulted in compliance.

The reasoning behind this decision is that we want providers to be open and honest with us, so that we are better able to help them. This is typically how Licensing handles reports of noncompliance – they focus on helping providers get into compliance, rather than relying solely on correction orders or other negative actions. Also, we do not want to punish unintentionally providers who are willing to support people who engage in challenging behaviors.

If maltreatment is suspected, EPRC members will follow the processes and procedures listed below to contact the appropriate authorities. In DHS-licensed settings, the Licensing Division has statutory responsibility to follow up on and investigate reports of maltreatment, serious injury, abuse or death. If any of these concerns are reported or suspected:

- DHS staff will notify Licensing when any of those items are checked on a BIRF, but EPRC members will notify the appropriate authorities if those issues are mentioned in conversation, on a document other than the BIRF, or on a BIRF that does not have the Serious Injury, Maltreatment, or Death boxes checked.
 - The Minnesota Adult Abuse Reporting Center should be called to report any alleged or suspected maltreatment of a vulnerable adult at **844-880-1574**
 - To report alleged or suspected child abuse, EPRC members should either call **911** when there is an immediate risk of harm or contact the local county or reservation where the child lives. Contact information for counties can be found here: <https://mn.gov/dhs/people-we-serve/children-and-families/services/child-protection/contact-us/#1>.
- If necessary, EPRC members will inform license holders that they must notify DHS/MDH and the Ombudsman of any death or serious injury through a state-issued form. These reports are reviewed by Licensing Division staff; identified concerns are discussed with the license holder and/or reviewed for maltreatment or licensing violation concerns.
- EPRC members should continue their evaluation of the EUMR phase out plan after reporting the maltreatment, serious injury or abuse.

The Licensing Division will monitor PSTP development and compliance for recipients who are subjected to three EUMR in 90 days or four EUMR in 180 days. The Licensing Division, HCBS Unit, conducts scheduled licensing reviews. During those reviews licensors will view a sample of EUMR reports for compliance with Minn. Stat. 245D.061 and Minn. R. 9544.0070, subp. 3. These reviews include confirming the development and submission of a PSTP after implementation of three EUMRs in 90 days or four EUMRs in 180 days.

Getting started

The materials you need can be accessed in the committee's share folder or through email with the committee coordinator. The share folder will contain the *EUMR Assignment List* and copies of the BIRFs submitted each month.

- In early 2019, new PSTPs and PSTP Reviews that are sent in to PositiveSupports@state.mn.us will be sent to the assigned committee member through email, and PSTPs and Reviews that are sent in through the BIRF system can be accessed by asking the committee coordinator.
- Sometime in mid-2019, committee members will be given access to the incident monitoring system which will include assignments, BIRFs, PSTPs and other case information. Details on how to use this new system will be provided at a later date.

Initial review of the materials

Part of the committee member's role is to make sure we have the documents/information necessary to determine if a change is needed to reduce the frequency or duration of future EUMR. Committee members must also provide guidance to the license holder when a change is needed.

How will members evaluate a "license holder's response"?

Guidance will be provided to a license holder about their response when there are any concerns or issues with the following:

- A PSTP and any required PSTP Reviews must be submitted to the state, as required by [DHS-6810B](#)
- The PSTP must meet the minimum standards of the PSTP Quality Checklist
- The PSTP should be informed by a formal analysis that identifies a hypothesized function of the behavior; this might be functional behavior assessment or similar document
- The documentation must reflect professional standards of practice outlined in [Minn. R. 9544.0030, subp. 4](#)

Even if the paperwork is complete and demonstrates best practices, the EPRC member will contact the provider to gather more information about the license holder's response when the frequency of EUMR is more than once a month.

Additional information gathered will depend on the individual needs of the person and the professional judgement of the committee member. The information will be used to determine if a change is needed to reduce the frequency or duration of future emergency uses of manual restraint.

Speaking to providers

When an EPRC member is new to making phone calls on behalf of the committee

Members should keep in mind that providers may be confused about why committee members are contacting them. The task of following up on EUMR is relatively new in Minnesota. Also, the phone call will show as coming from a non-state number. If committee members have trouble connecting with a provider, they can use their state email account or contact the committee coordinator to make the initial contact. The coordinator can introduce everyone and verify that the member has authority to provide guidance on how to reduce the use of manual restraint.

To help promote consistency among team members, the following process may be used to teach a new EPRC member how to conduct calls. This is not the only way to introduce a new member to making calls, and the process below can be tailored to individual needs and circumstances.

- Partner an experienced member with the new member.
- The two EPRC members will arrange for a time to discuss:
 - How to start a typical call
 - What is good to give for background and introductions
 - How to initiate the conversation based on the submitted information
 - Scheduling calls.
- When making a call, the experienced EPRC member will lead the call with the new member participating by listening .
- Following the call's conclusion, the two EPRC members will debrief on:
 - How the introduction worked
 - What worked about using the script and the method for starting the conversation based on the submitted information
 - What didn't work well during the call from both perspectives
 - What to do next time based on what worked and didn't work.
- This process will continue for a minimum of one phone call and then the roles will switch with the new EPRC member taking the lead on the call with the experienced member listening.
- The process for debriefing after the call will be the same as above.
- The new EPRC member will lead a minimum of one phone call prior to making calls solo.

EUMR Technical Assistance Calls

When making calls, start with who we are and why we are calling. Say "My name is _____ and I am a member of the External Program Review Committee that is charged with looking at high use of EUMR that is reported through the Department of Human Services BIRF system. We noticed there is a high number of EUMR for _____ reported in the system." Ask the provider if they are currently working with any DHS staff on reducing the use of emergency manual restraint for _____ and get names so that we can coordinate our efforts.

Then pick one of two ways to ask “How is it going...”:

- If they have a **recent** (no more than one year old) PSTP of good quality, ask how things are going. Say “I see that you have a PSTP on file for _____. Can you tell me a little bit about what you learned and are using to support _____?” Ask the provider if they feel the plan is being consistently implemented by staff and if they feel the plan is working.
- If the PSTP is more than a year old, is low quality, or has deficits, say “I noticed within this section of the PSTP it says _____: can you tell me more about this/that?” Based on their answer you can say something like “That’s not allowed” or “That sounds great, and would it be helpful to add _____ to this section?”

We can inform them that they are required under [Minn. R. 9544.0040](#) to develop an FBA for a PSTP. Explain the difference between the two documents and how they can help the provider reduce the use of manual restraint. This requires that you have [245D Statute](#) materials handy and the [Positive Supports Rule](#) handy. Keep in mind that some providers have to wait for case managers to set up a contract for an external to write the FBA; the process for that can sometimes take several months.

If it might help, let the provider know that they have the option to work with an external behavioral professional. Refer them to the county case manager and explain that waiver funds will cover this service at no cost to the provider (the person may not be on a waiver but most people within the committee’s purview are).

Before ending the call, ensure they are aware of where to submit the PSTP and remind them to send in the most recent copy. Committee members have the option to request an FBA and similar documentation, but DHS does not require the submission of those forms.

In-Person Technical Assistance

EPRC members are not required to meet with every team in-person. However, an in-person conversation may be appropriate in some cases. If the EPRC member is unsure, they have the option to consult other members of the committee before arranging a meeting with a care team.

Below is general outline for in-person meetings:

- Start with introductions (e.g. share names plus one thing they admire about the person)
- Explain your background and why you are there ([Minn. R. 9544.0130, subp. 3D](#))
- Ask the provider what is going well
- Ask the provider what they are concerned about
- Give feedback as they bring up topics
- If anything was missed, provide additional recommendations
- Ask the provider what type of additional assistance they would like and if they would like to meet again
- Take notes and provide a follow-up email after the meeting
- Continue to monitor for at least a couple months to see if the frequency or duration of EUMR increases or decreases
- Provide follow-up assistance as needed

Monitoring

Recording work

EPRC members must keep detailed notes of work completed. Early 2019 notes can be saved in the shared subcommittee folder under *EUMR Communication Tracking Tools*. Starting in mid-2019, members will likely be able to save notes in the new BIRF system. Members should also keep a separate file for each person served that includes any information not entered into the tracking tools – these files can be saved in the subcommittee’s shared folder. All records may be subject to an information request.

Documents received

Please forward copies of PSTPs or PSTP Reviews submitted by providers to the committee coordinator. She will ensure they are entered into the state’s system, which will help the provider be in compliance with the law.

Identifying progress or trends

The committee coordinator will let committee members know if the BIRF count is increasing, decreasing, or staying the same from month to month. However, the accuracy of the data is subject to a number of factors and can be greatly affected by small entry errors on a BIRF. Therefore, committee members are encouraged to focus on longer trends, BIRF narratives, and content from supporting documents (PSTPs, FBAs, etc.) when determining whether or not to contact a provider.

Targeting providers for additional training

By assigning cases by provider, committee members will be able to see all of the frequent EUMR for each setting. Through phone conversations and monthly monitoring, members should be able to gauge whether the provider is making progress or putting in significant effort towards reducing the use of restraint. Members may want to consider recommending additional training for some providers. When this occurs, committee members should notify the committee coordinator.

Outcomes

Committee members must provide high level oversight and guidance, but the care team or other qualified professional should write the plans complete the work. The intended outcomes of this work includes:

1. PSTP is in place, signed, up-to-date, and informed by a functional behavior assessment
2. The functional behavior assessment is up to date and if needed, includes a diagnostic assessment
3. Best/evidence-based practices are being used, based on [Minn. R. 9544.0030, Subp. 4](#)
4. If the provider has not seen a reduction in the use of the procedure within the past 6 months or there are other concerns as identified by the assigned EPRC representative, an external professional is assisting

Even if these outcomes are reached, the committee coordinator will continue to provide EUMR frequency counts. All EUMR BIRFs will be shared with committee members on a monthly basis so they can review those reports for areas of concern.

Other teams or resources that may be helpful to committee members

Positive Supports Lead at DHS

Questions for this person can be submitted by email at PositiveSupports@state.mn.us.

Regional Resource Specialists (RRS)

The RRS team provides training and technical assistance to lead agencies. There are four situations where the committee's work may lead to connecting with the RRS team:

- Committee members may refer to them when a provider has consulted with case management and the county or tribe is requesting further information. Committee members should encourage case managers to submit questions through the [Resource Center](#).
- The committee may want to consider connecting with the RRS team during policy change discussions – though it will depend on what is being discussed.
- If the committee has new training or support ideas for case managers related to [Minn. R. 9544](#), the RRS team could help provide that training.
- If a case manager is interested in joining a Community of Practice, details can be provided by the regional RRS team member through the Resource Center.

Visual of how to submit a PSTP

(This section will change when the new BIRF form is completed in mid-2019) Below is a picture of the button providers should click on page 8 of the BIRF to attach a PSTP or PSTP Review.

offer hands-on exhibits.

Characters remaining: 3373

Attach Positive Support Transition Plan

The plan as described reflects a significant change in the person's service and support plan in order to avoid future uses of restrictive behavioral interventions.

The plan as described represents that no significant changes are needed at this time.

6. Summary of the recommendations made by the internal review team

None at this time.

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Behavior Intervention Reporting Form Page 9 of 9

Notifications of incident and intervention usage

Contact	Date contacted	Time contacted
Guardian/Legal Representative	9/18/2017	1:15 pm
County Case Manager	9/18/2017	1:15 pm
Select one		
Select one		
Select one		