

**DIVISION CIRCULAR # 19
(N/A)**

**DEPARTMENT OF HUMAN SERVICES
DIVISION OF DEVELOPMENTAL DISABILITIES**

EFFECTIVE DATE: March 5, 2007

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(Rescinds Division Circular #19, "Defensive Techniques and Personal Control in Emergencies", issued August 27, 2003.)

- I. **TITLE:** Defensive Techniques and Personal Control Techniques
- II. **PURPOSE:** 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 the individuals with developmental disabilities it serves. However, the Division also recognizes that, even in a supportive environment, some individuals will exhibit aggressive, destructive and/or self-injurious behaviors. When such behaviors present a danger to the individual 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 medical intervention or behavior management also known as behavior support plan) shall be applied to change these behaviors. When the individual exhibits unanticipated dangerous behavior, emergency measures must be available to assist staff in protecting the individual or others. Among the emergency measures that are used in such situations are personal control techniques.
- III. **SCOPE:** This circular applies to developmental centers, private facilities for persons with developmental disabilities licensed under N.J.A.C. 10:47 and community programs regulated under N.J.A.C. 10:44A, 10:44B or any community programs regulated under N.J.S.A. 30:11B-1 et seq., as well as community programs under contract with the Division. The use of personal control techniques in Community Care Residences licensed under N.J.A.C. 10:44B shall be prohibited except under waivers granted by the Chief, Office of Licensing and Inspection, and only after approval of the specific technique by the appropriate Regional Assistant Director.

IV. POLICIES:

- A. Personal control techniques are only appropriate when absolutely necessary. The use of personal control techniques shall be minimized in favor of other less restrictive techniques. They shall be used only when the use of more positive interventions is exhausted and documented in the client record as being ineffective.
- B. Only staff who have successfully completed a training program approved by the Division of Developmental Disabilities shall apply personal control and defensive techniques.
- C. Training in the use of personal control techniques shall include methods to recognize the obvious signs of physical distress.
- D. Personal control techniques shall not be used as punishment, for the convenience of staff, or as a substitute for programming.
- E. The use of personal control techniques as part of a behavior modification program shall meet all requirements of Division Circular # 34.
- F. Application of personal control techniques shall meet standards set in accordance with personal rights N.J.S.A. 30:6D-1 et seq. "Developmentally Disabled Rights Act".
- G. Use of prone restraint as a personal control technique shall be prohibited.
- H. All techniques shall be designed to avoid the infliction of pain.

V. GENERAL STANDARDS:

- A. **Definitions**-For the purpose of this circular, the following terms shall have the meaning defined herein:
 - 1. "Chief Executive Officer" means the person having administrative authority over, and responsibility for a state operated developmental center or a private facility for persons with developmental disabilities licensed under N.J.A.C. 10:47.
 - 2. "Behavior Management Committee (BMC)" – Refer to Division Circular #18.
 - 3. "Defensive Technique" means maneuvers used to avoid or deflect injury from assault by an individual or to escape from a physical hold placed on staff by the individual. Examples include, but are not limited to, blocks (in response to kicks, punches, etc.) and releases (in response to bite, hair, etc.).

4. "Emergency" means a situation in which an individual engages in a behavior that will likely result in harm to himself/herself or others. To constitute an emergency in which a personal control technique can be used, staff must also determine that the use of verbal and/or physical prompting were unsuccessful in controlling the behavior.
5. "Executive Director" means the person having administrative authority over a private agency, which operates program(s) regulated by, or under contract with the Division.
6. "Functional Assessment" means a process which seeks to determine the function or purpose of a behavior through the identification of biological, social, emotional and environmental factors that initiate, sustain or eliminate that behavior.
7. "Human Rights Committee" 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, regional assistant director, executive director, or regional administrator on issues directly or indirectly affecting the rights of individuals served by the Division.
8. "Individual Habilitation Plan (IHP)" Refer to Division Circular #35.
9. "Interdisciplinary Team (IDT)" Refer to Division Circular #35.
10. "Personal Control Technique" means physical contact by staff with an individual, which restricts the individual's freedom of movement either partially or totally. Personal control techniques are considered distinct from physical prompting which is a procedure involving physical contact for the purpose of facilitating acquisition of a specific skill or behavior. Examples include, but are not limited to, the basket hold and take down procedure. Refer to Appendix A for additional examples.
11. "Physical Distress" means the individual is exhibiting one or more of the following: difficulty breathing; choking; vomiting; bleeding; fainting; unconsciousness; discoloration; swelling at points of restraint; appearance of pain; cold extremities or similar manifestations.
12. "Prone Restraint" means holding an individual facedown on their stomach or chest.
13. "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 does 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 comparable 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 American Speech Language Hearing Association or other comparable body; or
 - (3) 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 Dietetics 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, counseling or psychology.
- B. Personal Control Techniques shall be used **ONLY**:
- 1. In an emergency to control an individual in order to protect himself/herself or others from harm.
 - 2. In an emergency to contain the actions of an individual and/or transport him/her in order to apply mechanical restraints.
 - 3. As a strategy which is part of an approved behavior modification program to attempt to change a targeted behavior.
- C. The CEO, Executive Director or his or her designee shall be immediately notified when a personal control technique is applied in an emergency. The CEO, Executive Director or his or her designee shall be responsible to authorize the use of each personal control technique.
- D. The component or provider agency shall have a written procedure for obtaining these authorizations. All designees shall be a QMRP.
- E. Authorizations may be initially made over the telephone but shall be confirmed in a written order within 24 hours. The written order shall become part of the client record.

- F. The authorization shall be valid for up to one hour. The use of the personal control technique may be extended beyond one hour with re-authorization given for its continued use.
- G. The IDT is responsible to meet if the individual requires use of emergency personal control techniques at least three or more times in a six month period or more frequently if the Habilitation Plan Coordinator deems necessary. The IDT shall conduct a functional assessment of the problem behavior and incorporate techniques to address the behavior in the individual's IHP. The IDT shall meet within five working days of the third use of an emergency personal control technique in any rolling six-month period.
- H. In emergency situations, personal control shall not be used except when other, more positive and less restrictive techniques cannot ensure the safety of the individual or others.
- I. Personal control techniques shall not be used without medical review, as indicated in Section VI. 4 of this circular. This review shall be done no less than annually and may be accomplished at the time of the annual IHP.
- J. The staff member employing the technique shall continually observe the individual for signs of physical distress.
- K. The individual shall immediately be released from personal control when he/she ceases to present an imminent danger to himself/herself or others, or if the individual appears to be in physical distress.
- L. If any sign of physical distress as a result of the use of control techniques is observed, the physician shall be notified immediately. Appropriate medical treatment shall be immediately provided and documented promptly in the client record.

VI. PROCEDURES:

- A. Each developmental center, private facility for persons with developmental disabilities and agency that wishes to utilize defensive and personal control techniques shall submit a procedure to the Division Director for review and approval. A developmental center, which already has staff trained in a Personal Control and Defensive Techniques Program approved by the Division of Developmental Disabilities, may continue to use such a program without submitting a new procedure to the Director.
 - 1. At a minimum, the procedure shall include:
 - a. The curriculum to be followed which shall include both a diagram and narrative description of each technique to be used.

- b. Who will train staff and the qualifications of the trainer.
 - c. A listing of staff to be trained. This can be done by identifying job titles and/or specific program locations.
 - d. A requirement that the IDT meet following the use of a personal control technique in an emergency as indicated in Section V.G. of this circular.
 - e. A mechanism for the review of the use of personal control techniques to analyze patterns of use.
 - f. Safeguard in case the personal control techniques are used incorrectly to include:
 - i. the provision of medical attention for the individual if physical distress or an injury occurs.
 - ii. a requirement that a staff member be retrained before again using a technique.
 - iii. a provision for disciplinary action if the misuse of the technique is determined to be deliberate as a result of neglect.
 - g. Guidelines for reporting unusual incidents consistent with Division Circular #14.
 - h. A requirement that staff trained in the use of personal control techniques shall:
 - i. At least annually, demonstrate proficiency in those techniques for which they have been trained.
 - ii. Be retrained as necessary.
 - i. Recordkeeping and review requirements in accordance with this circular.
2. Whenever a personal control technique is included in the IHP as a planned intervention, the plan must have approval by the Behavior Management Committee, Human Rights Committee and the Executive Director or Chief Executive Officer. Informed Consent and medical clearance are also required.

3. The developmental center, private facility for the developmentally disabled or agency shall be informed in writing when their procedures are approved. If they are not approved, the developmental center, private facility for persons with developmental disabilities or agency shall be advised in writing of the areas of concern.
4. No personal control technique shall be employed unless:
 - a. In Developmental Centers/private licensed facilities, a physician certifies that the personal control technique is not medically contraindicated; and
 - b. In Community Programs licensed for persons with developmental disabilities, the IDT shall review the client record for documented signs of physical distress. If the IDT has any question concerning the use of a personal control technique, the use of the personal control technique in question shall not be authorized until a physician reviews the technique and the individual's record, evaluates the individual, as necessary, and approves its use. If the IDT notes no concerns, the personal control technique may be used.
5. The CEO, Executive Director or his or her designee shall authorize the use of each personal control technique in emergencies.
6. Use of personal control techniques in emergency situations shall be limited to no more than one hour. The continued use of the personal control technique may be extended for an additional hour with written authorization. If the individual continues to be unmanageable after one hour, the need for other measures, such as mechanical restraint or medication, shall be considered. Use of personal control techniques as part of behavior modification plans shall also be used in accordance to the limits set forth in the plan.
7. Use of the personal control technique(s) shall be terminated immediately, if the individual shows any signs of physical distress.
8. The facility shall notify parent(s) or legal guardian(s), within 24 hours of completion of the emergency personal control technique. The notification shall be documented in the client record. Notification is not required when the personal control technique is used as part of a behavior modification plan.
9. All use of personal control techniques shall be promptly documented and maintained in the client record. Documentation shall include:

- a. The name and title of the person who authorized the personal control technique;
- b. The date and time the personal control technique was applied;
- c. The nature of the emergency situation that required the individual to be placed under a personal control technique;
- d. Specific type and description of the personal control technique and duration of its use;
- e. Summary of the individual's condition while the technique was used including time of release written by staff member applying the technique;
- f. Any observations of distress shall be documented immediately and described clearly in the individual's medical chart; and
- g. The condition of the individual, while the personal control technique is being used, shall be documented every 15 minutes. All documentation shall be included in the client record.

Gregory Fenton
Acting Director

APPENDIX A
PERSONAL CONTROL TECHNIQUES

This appendix will identify the most commonly used forms of personal control techniques. There are several types of personal control techniques, which can be applied to protect individuals that are out of control from harming themselves or others in their environment. The following techniques are employed by the Division of Developmental Disabilities' Developmental Centers, private facilities for persons with developmental disabilities and agencies licensed by the Division under N.J.A.C. 10:44A. Defensive techniques such as blocks and releases are not considered to be personal control techniques.

***Note:** Use of prone restraint as a personal control technique shall be prohibited.

Types of Personal Control Techniques:

- A. Bear Hugs
- B. Basket Holds
- C. Take Down
- D. Primary Restraint Technique (PRT)

II. General Description and Application Method of Each Technique:

- A. Bear hugs are used to contain a person's arms and upper body movements when they are out of control. They are applied by holding the person from behind with your arms over his or her arms and holding your own wrists or hands.
- B. Basket holds are used to restrict an individual's hands, arms and upper body movements. These holds are applied by the staff member standing directly behind the individual. The staff member wraps his or her own arms around the individual and holds the individual's opposing wrist at approximately waist level.
- C. Primary Restraint Technique (PRT) is used in the "Handle with Care" program. The staff member takes an individual's arm. One arm of the staff member is placed behind the individual's arm. The staff must pivot behind the individual and bring both arms slightly above the individual's elbows. The staff member holds his hands flat on the individual's back.
- D. Take downs are used to lower the person safely to the ground when he or she can no longer be controlled safely in a standing position. They employ the basket hold or personal control technique; there are some variations of take downs:
 - 1. Adult take downs – seat the individual on the floor by sliding him or her down your own leg to the floor while you step backward and move onto one knee.
 - 2. Two-person lay down – while using the basket hold or personal control technique, two or more staff take the person to the floor. One staff member may be used to control the individual's legs.

There are numerous versions of the above named personal control techniques that are described in detail in the crisis procedures of the facility.