INDEPENDENCE ASSOCIATION HCBS Policy: 001

Title: BEHAVIORAL SUPPORT, MODIFICATION, SAFETY AND MANAGEMENT POLICY

Date: May 16, 2022

Policy:

Independence Association will follow all guidelines contained within *Regulations Governing Behavioral Support, Modification and Management for People with Intellectual Disabilities or Autism in Maine (14-197 CMR Chapter 5).* Independence Association is committed to providing positive behavioral supports that adheres to the principles of Social Role Valorization, normalization and full inclusion with services delivered in a respectful, positive manner within a healthy, safe environment.

Independence Association is also committed to addressing any inappropriate or challenging behavior using the least restrictive intervention necessary. When challenging behaviors occur, the respective individual's supporting team members will use the personal planning process to create a plan that assists the person in developing positive skills and techniques that empowers him/her to demonstrate positive, prosocial behavior. Supporting a person to change his or her challenging behavior will be done as a Positive Support Plan (PSP), Safety Plan (SP), or if necessary, a Behavior Management Plan (BMP). Any or all of these plans will be an addendum to the Person-Centered Plan. Challenging behavior is defined as behavior that presents an imminent risk to the health and safety of the person or the community; or presents serious and imminent risk of damage to property of the community, or seriously interferes with a person's ability to have positive life experiences and maintain relationships.

Procedure:

A. Training Requirements:

1. All staff will be trained on this policy and on proper crisis prevention/intervention via Safety Care, and documenting reportable events at the time of hire. Re-training will promptly occur, as needed, to ensure policy and procedures are followed correctly and consistently.
2. Staff must complete the *Maine College of Direct Support* module **Regulations Governing Behavioral Support, Modification and Management of People with Intellectual Disabilities and Autism Training** within the first three (3) months of employment**.** This module must be repeated every 36 months.
3. Staff must complete the *Maine College of Direct Support* module **Maine Positive Behavior Supports** within the first three (3) months of employment.
4. For any PSP, SP, or BMP, all staff working with that respective individual will be trained on the implementation of the plan and how to record empirical data associated with the plans when necessary.

B. Reportable Events and Incident Reports:

1. The development of PSP, BMP, or SP is based on a documented need for the plan. Staff witnessing anything that is an unusual pattern for the individual or meets the definition of a reportable event, will file an incident report or reportable event on the electronic health record.

2. Emergency interventions, restraints, and other situations meeting the qualification for a reportable event, must be reported via the electronic health record, and a Reportable Event will be submitted.
3. Recurring patterns, to include emergency restraints used more than 3 times in a 2 week period or 6 times within a 365 day period, will be identified by the Quality Care Coordinator, and along with the program manager contact the individual's case-manager to conduct an IST meeting.
4. For specifics regarding the filing of incident reports and reportable events, please refer to the reportable events policy.

C. Positive Support Plan/Behavior Plan

1. A Positive Support Plan will always be implemented prior to utilizing Behavior Management strategies and plans. Plans are initiated only when the data confirms a plan is necessary and the individual's planning team agrees that intervention is needed.
2. The plan will be designed by the agency's Board Certified Behavior Analyst (BCBA) with input from staff that will be providing supports for the person.
3. The PSP is written and implemented so that the plan does not impact and/or impede the rights of other individuals who are receiving services in the same setting.
4. All PSP, SP, and BMPs are implemented are tailored for a specific person.
5. All PSP, BMP, and SPs that are developed to assist an individual may not be posted in any setting and will be kept in a secure location that only authorized staff can access.

D. Positive Support Plan/Behavior Plan Implementation:

1. The plan is necessary to ensure the health and/or safety of the person.
2. The plan is supported by a specific assessed need of the person.
3. The plan is justified in the person-centered service plan by documenting less restrictive and less intrusive strategies that have been tried previously but did not work for the person.
4. The plan has been documented in the person-centered service plan with steps that are being taken to remove or reduce the modification as soon as feasible.
5. The plan is approved by the person through informed consent.
6. The plan includes:
    a. A component to monitor ongoing process for evaluating the effectiveness of the modification.
    b. Timeframes ensuring the modifications must be periodically reviewed and reevaluated, which is at a minimum, annually, but typically occurs every six (6) months.

E. Agency Documentation

1. All of an individual's documentation is located in their Electronic Health Record (EHR), or in a temporary binder that is used for manual data collection prior to being recorded in the EHR.
2. If an individual has a PSB, it is located in the *ALL About Me* binder.
3. Anyone working with the individual will be trained on its content.
4. DSPs will sign acknowledgements that they have been trained.
5. PSPs/BMP are managed by the BCBA and are discussed with staff at staff meetings to provide re-education and to discuss concerns and/or progress.
6. DSPs will document on the progress or use of PSP or BMP in the respective area of individual's EHR.

F. <u>Types of Plans:</u>

Positive Support Plans

a. (Levels 1-2) are the first approach that the planning team must implement to assist a person experiencing challenging behaviors. The BCBA must ensure the development of a Functional Behavior Assessment and implement a Positive Support Plan. The goal of the Positive Support Plan must be to reduce challenging behavior and replace it with prosocial behaviors (fair pair rule) and to mitigate the need for more restrictive practices.
b. The BCBA is responsible to initiate the Planning Team process. The Planning Team is responsible to ensure all documentation, assessments, plans and reviews are completed as required.
c. The Planning Team must ensure that Medical and Mental Health Assessment and Treatment, as described in Section 5.04-2, are part of the PSP
d. The Planning Team must develop a Psychiatric Medication Support Plan whenever Psychiatric Medications are used to address Challenging Behaviors.
e. The Planning Team must develop an In-Home Stabilization Plan, as described in Appendix Three (of regulations) whenever In-Home Stabilization will be used under one hour for safety and assessment.
f. Evidence and Documentation Required for Positive Support Plans:
   ii. Positive Support Plan and Functional Assessment in the Personal Plan;
   iii. Documentation of implementations, evaluation and modifications of the Positive Support Plan.
   iv. Transition plan for reduction of restrictions of rights, and transition to more Positive Supports, naturally occurring Reinforcers and personal control for all Positive Support Plans at Level 2; and
   v. Psychiatric Medication Support Plan, if required, and documentation of usage.

Behavior Management Plan (Levels 3-5)

a. If the Planning Team determines that a PSP alone is insufficient to prevent harm or danger to the Person or the community, the Planning Team must ensure the development of a Behavior Management Plan (BMP) or follow emergency intervention according to (*14-197 CMR Chapter 5).* Behavior Management Plans must be developed in consultation with a qualified professional who must be a psychiatrist, a licensed psychologist or psychological examiner, a Licensed Clinical Social Worker, Licensed Clinical Professional Counselor, or a Board Certified Behavior Analyst.
b. The Behavior Management Plan must describe how to support the Person, including any proposed procedures that involve temporary restrictions of rights or the use of restraint. This rule describes planning and approval requirements necessary before the BMP can be implemented.
c. The agency BCBA is the member of the Planning Team responsible to initiate the Planning Team process. The Planning Team is responsible to ensure all documentation, assessment, plans and reviews are completed as required.
d. In all cases, positive supports must continue to be implemented and evaluated to address the challenging behavior.
e. There may be circumstances that require an Updated Functional Assessment, Psychological Assessment and/or Physician's Evaluation as part of Behavior Management Planning.

f. There are prohibited practices which are listed in *(14-197 CMR Chapter 5).* Those practices will not be approved and must not be implemented at any time.
g. Evidence and Documentation Required for Behavior Management Plan:
   i. All new Behavior Management Plans submitted for review must include:
      1. Personal Plan;
      2. Updated Functional Behavior Assessment;
      3. Positive Support Plan;
      4. History of Positive Support interventions;
      5. Psychiatric Medication Support Plan, if required, and documentation of usage;
      6. Proposed Behavior Management Plan;
      7. Summary of reportable events for the past year;
      8. Psychological Assessment, if required; and
      9. Documentation of the Physician's Evaluation.
h. Behavior Management Plans submitted for ongoing approval must be submitted at least ten working days prior to the review date and unless the Review Team specifies otherwise must include the following information:
   i. Documentation from monthly monitoring of the Behavior Management Plan by the overseeing clinician;
   ii. Minutes reflecting the discussion of the Behavior Management Plan in quarterly reviews by the Planning Team;
   iii. Notes of quarterly monitoring of the Behavior Management Plan conducted by the Case Manager;
   iv. Summary of data gathered as indicated in the approved Behavior Management Plan;
   v. Summary of reportable events since the previous approval date;
   vi. Updated or modified Behavior Management Plans and assessments; and
   vii. Psychological Assessment within the past three years, if required.
i. Requirements for Plans and Assessments:
   i. Functional Assessment
   ii. Positive Support Plan
   iii. Psychiatric Medication Support Plan
   iv. Update Functional Assessment
   v. Behavior Management Plan
   vi. In-Home Stabilization Plan
   vii. Psychological Assessment
   viii. Physicians' Evaluation
j. For more detailed information regarding Behavior Management Plans, refer to *Regulations Governing Behavioral Support, Modification and Management for People with Intellectual Disabilities or Autism in Maine (14-197 CMR Chapter 5).*

Safety Plans

a. Safety Plans and the use of each Safety Devices must be reviewed individually according to the process set out in (*14-197 CMR Chapter 5).* The purpose of the Safety Device, the impact its use has upon the person for whom it is prescribed or recommended, and the degree of intrusiveness the device imposes must be determined on an individual basis. Safety Devices that impose a greater degree of intrusiveness upon the person and have a greater impact upon

the mobility of the person or the comfort of the person warrant a higher degree of scrutiny and oversight.

b. Any Safety Device must impose the least possible restriction consistent with the purpose of insuring safety. Safety Devices may never be used as punishment, for staff convenience, or as a substitute for teaching the person new skills or abilities that would eliminate the underlying risk that gives rise to the request for the use of the device.
c. Can only be considered after less intrusive techniques have been tried and failed.
d. Motion detectors, sound monitoring, and video monitoring devices must be supported by a history of a lack of environmental awareness and /or a related medical diagnosis, such as Dementia.
e. Every effort must be made to maintain privacy and confidentiality in the use of these devices. The plan must include procedures used to maximize privacy and maintain confidentiality.
g. Each safety device needs to be reviewed by the review team. Preliminary requirements prior to the review include the following:
   i. Written recommendation from a physician qualified to practice in the State of Maine.
   ii. Approval by the person's personal planning team which must be recorded in a document that is part of the person's personal planning record.
   iii. Any member of the planning team may request review or involvement by an Advocate.
   iv. If the person has a guardian, or if the person is under limited medical guardianship, the guardian must approve the use of the safety device.
   v. The personal plan of each person affected by the use of the safety device must indicate how that person will be supported to minimize the negative impact of any restriction.
   vi. When a video monitoring device or video recording is used and it is highly predictable that another person will trigger or appear on the monitoring or recording device, the consent of that person must be obtained.
h. Any use of a safety device must be reviewed at least once per year by the review team.
i. Any member of the review team may require that use of a safety device be reviewed more frequently. Information must be current for that review.
   i. All initial and renewal requests for permission to use a safety device must be submitted on Safety/Protective Device form. It must be accompanied by the written recommendation of a physician, and any required consents for use of the device.
   ii. Each request for permission to use a safety device must have its own professional authorization that refers specifically to that safety device and approval by the planning team.
   iii. Multiple devices by the same professional can be on the same Safety/Protective Device form. Safety devices that are normally used in pairs such as gloves or foot straps, do not need a separate request.
j. Specific Examples of Devices Usually Considered to be Safety Devices, as well as, Safety Related Devices or Practices that Do Not Need Approval of the Review Team are in *Sections 5.10-2 and 5.10-4 (14-197 CMR Chapter 5).*

G. Types of Intervention:

Psychiatric Medications:

a. When Psychiatric Medications are prescribed for challenging behaviors, the Planning Team must adhere to special procedures to ensure monitoring of the effects of such medication on health and mental functioning.

i. The Planning Team must monitor and document the use of Psychiatric Medications at least annually.
ii. A Psychiatric Medication Support Plan is required for monitoring purposes:
    1. Psychiatric Medication Support Plan and the Positive Support Plan can either be separate documents or integrated into one comprehensive plan.
    2. The overall plan needs to incorporate the psychiatric treatment such as medication or therapy, as well as, a Functional Assessment and PSP designed to address the challenging behavior.
iii. A Psychiatric Medication support Plan is a component of the Personal Plan that must include, but is not limited to:
    1. List of medications, target symptoms, diagnosis and prescribing physician(s);
    2. Parameters for use of medications prescribed as Psychiatric Medication PRN or "as needed";
    3. Behavioral criteria to determine whether the medication is effective, such as changes in behavior, mood, thought or functioning;
    4. Identification of side effects or adverse reactions that must be reported to the prescribing physician when they occur;
    5. Potential risk of long term use;
    6. Other supports which may help alleviate the Person's symptoms (may be included in Positive Support Plan);
    7. Plan for data collection, review and monitoring of medication effectiveness, side effects and dosage; and
    8. Doctor's order attached for Psychiatric PRN Medication Support Plan.
iv. All orders for the use of Psychiatric PRN Medication must be prescribed by a physician, approved by the Person or Guardian, administered by properly trained staff, and included in the Psychiatric Medication Support Plan.
v. Physician's order must specify written instructions that describe specific symptoms for which Psychiatric PRN Medication may be used, exact dosage, exact time frame between dosages, and the maximum dose to be given in a twenty-four (24) hour period.
vi. If there is a Guardian, and the Guardian provides consent for a Psychiatric PRN order, the Guardian's consent must include specific written instructions for how the Guardian will be notified about each administration of a Psychiatric PRN medication.
vii. After each administration of a Psychiatric PRN medication, the prescribing physician must be notified within twenty-four (24) hours of the administration of the medication, unless otherwise instructed in writing by the physician.

H. <u>Emergency Interventions, Including Restraint, Removal of Personal Property and Specialized Restraint:</u>

a. Emergencies occur when a person's challenging behavior presents an imminent risk to the health and/or safety of the person or the community.
b. If necessary to protect the person or the community from imminent risk, restraint otherwise permitted, with an approved BMP, may be used on an emergency basis.
c. Emergency intervention is a DHHS approved physical management program.
d. When emergency restraint is utilized, the least restrictive technique necessary to make the situation safe must be used. *The restraint can only be performed by DSPs (Direct Support Professionals) who have completed specific training.*
e. Any emergency intervention must be terminated as soon as the need for protection is over or state/training regulated time frames have been met (i.e. - restraints can last no longer

than 3 minutes because of training, and in-home stabilization no more than an hour if there is a Positive Behavior Plan); no further restriction may be imposed.

f. Emergency intervention may include temporary removal of personal property to protect the person from imminent risk of injury. The property must be returned as soon as it is safe to do so.
g. Whenever emergency intervention is used, it must be reported and a Reportable Event filed.
h. Prohibited practices must never be used on an emergency basis.
i. The predictable and routine use of emergency intervention does not afford a person the level of protection and oversight intended by this policy.
j. If emergency restraint is used on a person more than three times in a two week period or six times in a 365 day period or used in a recurring pattern or the removal of personal property is used three times in a 365 day period, then the planning team must ensure a functional assessment is developed or updated and the PSP reviewed for effectiveness.
    i. An Individual Support Team (IST) must be convened, including a member from the Developmental Services Crisis Team.
    ii. If the planning team determines a Behavioral Management Plan (BMP) is warranted, an appropriate plan must be developed and submitted for approval.
    iii. When a BMP is identified as a need and is not developed within sixty days, the planning team must identify it as an unmet need..
    iv. If the planning team does not develop a BMP, the planning team must submit to the review team for approval a justification explaining why a BMP is not necessary. This can be done as the IST assessment.

I. Therapeutic Devices:

a. Any therapeutic device may only be applied under the supervision of a medical doctor, occupational therapist, or physical therapist licensed to practice in the State of Maine. The professional may delegate responsibility for the day-to-day application of the use or application of the support to others, as long as any other persons applying the support have been trained in the proper use of the support and the professional retains professional responsibility for the application of the support.
b. Use and design of any Therapeutic Device must be individualized to the specific need of the person who is using the support, so as to meet the need and maximize the comfort of the person.
c. Any Therapeutic Device must make allowance for the person to change body position.
d. Impact upon the person’s body alignment and blood circulation must be considered in the use of any Therapeutic Device.

J. Distinctions Between Safety Devices, Devices that are Utilized for Behavioral Management, and Therapeutic Devices:

a. When the same device or apparatus meets the definition of a Therapeutic Device, a device for behavioral management, or a Safety Device - the Person’s Planning Team initially renders a classification.
b. The Review Team may exercise its own discretion in classifying any device, intervention, or practice.

D. PROHIBITED PRACTICES - will not be approved and must not be implemented at any level of intervention.

- **Corporal Punishment**: Application of Painful stimuli to the body including, but not limited to, hitting, pinching, shocking, shock devices.
- **Overcorrection**: Requiring a person to clean or fix the environment more than necessary to restore it to its original state, and/or to practice repeatedly the correct way to do something as a consequence for having done something wrong.
- **Aversive**: Intervention or action, intended to modify behavior, that could cause harm or damage to a Person, or could arouse fear or distress in that Person, even when the intervention of action appears to be pleasant or neutral to others.
- **Seclusion:** Solitary involuntary confinement of a Person for any period of time in a room or a specific area from which egress is denied by a locking mechanism, barrier or other imposed physical limitation.
- **Psychological/verbal abuse:** Use of verbal or nonverbal expressions in any form which expose the Person to ridicule, scorn, intimidation, denigration, devaluation, or dehumanization. Includes humiliation or degrading treatment and threatening a Person with loss of his or her home.
- **Restriction of Activities or Contact with Family or Significant Others:** Regularly scheduled social activities (such as specified in the Personal Plan) cannot be restricted as part of Behavior Modification or Behavior Management. This includes denial of communication or visitation with family members or significant others for the purpose of behavior modification or behavior management.
- **Denial of Basic Needs:** Denial of sleep, shelter, bedding, access to bathroom facilities, or withholding of food or drink not associated with prescribed medical treatment. Withholding or modifying food as a consequence for behavior. Limiting of medical or dental care.
- **Limiting a Person's mobility:** Removing or refusing, for the purpose of behavior modification or behavior management, items such as crutches, glasses, hearing aids, or a wheelchair to limit a Person's mobility.
- **Removing or Withholding Funds or Removing Earned Tokens:** Withholding money that a Person has earned or is legally entitled to (such as benefits) as a form of Punishment or Behavior Management. Requiring a Person to re-earn money or items that belong to them, or were previously earned. Removing or taking away money, tokens, points, activities or other Reinforcers that a Person has previously earned.
- **Manipulation of Personal Property:** Personal property may not be manipulated for purposes of behavior modification or behavior management, except to address Imminent Risk of harm to self or others, or when the property itself is the cause of risk to health and safety.
- **Restricting of Basic Rights:** Inhumane treatment, or restricting the right to vote, work, or hold a religious belief.
- **Certain Physical Restraints:**
    a. Restraints involving excessive force, punching, hitting, head hold.
    b. Prone Restraint, in which the Person is held face down.
    c. Restraints that have the Person lying on the ground or in a bed with a worker on top of the Person, on the back or chest, or straddling or sitting on the torso.
    d. Restraints that restrict breathing or inhibit the digestive system.
    e. Restraints that hyper-extend a joint.
    f. Restraints that put pressure on the chest.
    g. Restraints that rely on pain for control.
    h. Restraints that rely on a takedown technique (in which the Person is not supported, allowing for free fall to the floor) or force the Person to his or her knees or hands and knees.
    i. Restraint face first against a wall, railing or post.
    j. Restraint that involves physical contact covering the face.
    k. Restraint or physical intervention which puts the Person off balance.

l. Not part of a physical restraint program approved by the Department.

- **Certain Mechanical Restraints:**
    a. Totally enclosed crib
    b. Camisole or straightjacket
    c. Restraint chairs
    d. Harnesses
    e. Bed netting
    f. Swaddling, from which the Person cannot remove him or herself.
    g. Swaddling from which the Person can remove him or herself but to which the Person or the Person's guardian communicates an objection.
    h. Prone Mechanical Restraint in which the person is held face down.
- **Emergency use of Chemical Restraint:** Any Emergency use of Chemical Restraint.
- **Routine use of Emergency Intervention:** When an IST is required under Section 5.08 and a justification to address the Challenging Behavior without a Behavior Management Plan has not been approved by the Review Team.