

Legislative Analysis



ALLOW USE OF PHYSICAL RESTRAINT AT CHILDREN'S THERAPEUTIC GROUP HOMES

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<http://www.house.mi.gov/hfa>

House Bill 4409 as introduced
Sponsor: Rep. Julie Calley
Committee: Health Policy
Complete to 8-13-19

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4409 would amend 1973 PA 116, the child care licensing act, to describe the circumstances under which personal restraint and physical management could be used on children—specifically, in children's therapeutic group homes in cases of emergency.

The act currently prohibits the use of personal restraint in a children's therapeutic group home. The bill would amend the definition of *children's therapeutic group home* to remove this prohibition and to instead prohibit chemical restraint.

Under the bill, *personal restraint* and *physical management* could be used in a children's therapeutic group home only on an emergency basis when the situation placed the minor child or others at imminent risk of serious physical harm and only briefly until the child's safety and safety of others could be ensured.

Personal restraint is defined in the act as the application of physical force without the use of a device in order to restrain the free movement of a minor child's body.

Physical management would be defined as an emergency intervention technique used by a staff member to restrict the movement of a minor child by continued direct physical contact, despite the child's resistance, to prevent him or her from physically harming himself, herself, or others.

A person could not use physical management for behavioral control purposes that involved immobilizing the child in a lying-down position on his or her back or stomach, including any physical management that restricted a child's respiratory process.

If either personal restraint or physical management were used, staff members would have to evaluate the child's physical and psychological well-being to determine whether a face-to-face evaluation by a licensed practitioner was needed. The face-to-face evaluation would have to include all of the following:

- The child's physical and psychological status.
- The child's behavior.
- The appropriateness of the intervention measures.
- Any complications resulting from the intervention.

Requirements following use of personal restraint or physical management

The bill would require that the child's parent or legal guardian be notified of any use of personal restraint or physical management. Each instance would require full justification of the use, with the results of the evaluation immediately following the use to be placed in the child's record. Within 24 hours after the use, all staff members involved and appropriate supervisory or

administrative staff members would have to conduct a debriefing session, which could include the child's parent or guardian, if appropriate. The debriefing session would have to include all of the following:

- Discussion of the emergency safety situation that required the use of personal restraint or physical management, including a discussion of the precipitating factors that led to the situation.
- Alternative techniques that might have prevented its use.
- The procedures, if any, that staff members were using to prevent a recurrence of its use.
- The outcome of the emergency safety intervention.

Training in personal restraint

The bill would require that each licensed children's therapeutic group home delegate and train staff members allowed to use personal restraint during their employment. The training curriculum would have to be both of the following:

- Nationally recognized or have accreditation and include empirical support for the effectiveness of the program.
- Designed for use with the age and size of children served by the group home and emphasize and teach crisis prevention and de-escalation before use of physical restraint.

Also, either in the curriculum or in the organization's policy, there would have to be documentation including the use of a trauma-informed approach to the use of crisis intervention, de-escalation, and restraint. Additionally, there would have to be documentation that supervisors would have to be notified as soon as possible of a restraint incident (and that the supervisors be directly involved when possible.)

The training would have to address all of the following:

- Emergency physical management techniques to be utilized during emergency situations.
- The use of nonphysical intervention skills to prevent emergency safety situations (such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods).
- Techniques to identify minor children's behaviors, events, and environmental factors that may trigger an emergency safety situation.

The bill would take effect 90 days after its enactment.

MCL 722.111 and 722.112b; proposed MCL 722.112f

FISCAL IMPACT:

The bill would not have a significant fiscal impact on state or local government.

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