

## 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. Committee members may use their professional judgment 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 (as of April 2022)

Melanie Eidsmoe  
Danielle Bishop  
Jodi Greenstein  
Mary Piggott  
Dan Baker  
Stacy Danov

Susie Haben  
Laura Daire  
Lindsay Nash  
Kim Frost  
Tatiana Kerestesh  
Liz Harri

### DHS support staff

Stacie Enders                      Committee coordinator                      [positivesupports@state.mn.us](mailto:positivesupports@state.mn.us)  
Linda Wolford                      Backup coordinator

### Commissioner's authorized representative

Jennifer Yang

## Acronyms that might be used in this document

BIRF: Behavioral Intervention Report Form, [DHS form 5148](#)  
CABC: Context, Antecedent, Behavior, Consequence  
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.

## How workloads will be assigned

An EPRC member will be assigned to read and monitor a person's BIRF records whenever a PSTP is required for the person after four EUMR in 180 days or three EUMR in 90 days. Members might also be assigned to other people by the committee coordinator as needed.

For people who receive services who are not assigned an EPRC representative through the coordinator's initial review each month, but had an EUMR BIRF submitted in the past 30 days, an EPRC delegated representative will read the BIRFs and use the following criteria to identify other people who might need follow up (currently as of February 2020, Liz Harri will identify and Stacie Enders will assign a committee member to follow up):

- If the restraint was 30 minutes or longer, the representative will read the BIRF to see if there are indications of an ongoing problem and will report concerns to the committee coordinator. If the situation appears to be resolved or the team has a reasonable plan described in the BIRF for preventing future EUMR, the representative will not report that BIRF to the coordinator.
- Anyone who currently needs a PSTP but has not already been assigned to an EPRC representative should be identified for follow up.
- Any use of prohibited procedures that DHS is not already aware of should be identified for follow up.
- Some people do not meet the criteria for a PSTP through counting only EUMR BIRFs but might have other types of BIRFs that add up to three in 90 days or four in 180 days (not including BIRFs that did not need to be submitted, such as the commonly over reported PRN BIRFs). A committee representative will follow up on those BIRFs if the response to the interventions is inadequate (defined as not meeting the professional standards of practice outlined in Minn. R. 9544.0030, subp. 4).

## Workload

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.

By the end of each year we expect committee members to 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 them 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 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.
- 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.

## 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: [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.

## Principles

In alignment with the principles and lessons learned from the DHS Collaborative Safety project, committee members have adopted the following concepts for their reviews:

- All perspectives are valid.
- We will avoid blame and assume good intentions.
- We will not only analyze the incident, but we will also analyze systems and external factors surrounding and influencing incidents.

## Unnecessary BIRFs

If through any of the committee review processes we come across PRN or 911 BIRFs that did not need to be submitted per Minn. R. 9544, we will let providers know they are over-reporting, provide a copy of [Minn. R. 9544.0110](#), and explain why those reports do not need to be submitted. We will also let them know we are available for consultation if they have questions.

## 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. 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 up to six 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. Notes can be saved in the shared subcommittee folder under EUMR Communication Tracking Tools. 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.

### Records retention

- The committee will keep all person-specific information related to the EPRC for 10 years (such as the closed portion of the written meeting minutes and audio recordings).
- The committee will keep all information that is not person-specific for 5 years (such as the open portion of the written meeting minutes).
- The committee will delete information posted online that is older than 3 years, but that information will be kept in our internal records for 5 years.

For further information about records retention, see the [DSD-specific guidelines](#).

### 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.



## Outcomes

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

- PSTP is in place, signed, up-to-date, and informed by a functional behavior assessment
- The functional behavior assessment is up to date and if needed, includes a diagnostic assessment
- Best/evidence-based practices are being used, based on [Minn. R. 9544.0030, Subp. 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 might be helpful to committee members

### Positive supports lead at DHS

Questions for this person can be submitted by email at [PositiveSupports@state.mn.us](mailto: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.

### Mental health services

The Behavioral Health Division does not have a centralized calling system like Disability Services, so they recommend contacting them via this email address and they will route from there:

[MN\\_DHS\\_amhi.dhs@state.mn.us](mailto:MN_DHS_amhi.dhs@state.mn.us).

Website information: [Adult Mental Health Initiatives](#).