

Employee of a CMHC means an individual—

(1) Who works for the CMHC and for whom the CMHC is required to issue a W-2 form on his or her behalf; or

(2) For whom an agency or organization issues a W-2 form, and who is assigned to such CMHC if the CMHC is a subdivision of an agency or organization.

Initial evaluation means an immediate care and support assessment of the client's physical, psychosocial (including a screen for harm to self or others), and therapeutic needs related to the psychiatric illness and related conditions for which care is being furnished by the CMHC.

Representative means an individual who has the authority under State law to authorize or terminate medical care on behalf of a client who is mentally or physically incapacitated. This includes a legal guardian.

Restraint means—

(1) Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a client to move his or her arms, legs, body, or head freely, not including devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a client for the purpose of conducting routine physical examinations or tests, or to protect the client from falling out of bed, or to permit the client to participate in activities without the risk of physical harm (this does not include a client being physically escorted); or

(2) A drug or medication when it is used as a restriction to manage the client's behavior or restrict the client's freedom of movement, and which is not a standard treatment or dosage for the client's condition.

Seclusion means the involuntary confinement of a client alone in a room or an area from which the client is physically prevented from leaving.

Volunteer means an individual who is an unpaid worker of the CMHC; or if the CMHC is a subdivision of an agency or organization, is an unpaid worker of the agency or organization and is assigned to the CMHC. All volunteers

must meet the standard training requirements under § 485.918(d).

§ 485.904 Condition of participation: Personnel qualifications.

(a) *Standard: General qualification requirements.* All professionals who furnish services directly, under an individual contract, or under arrangements with a CMHC, must be legally authorized (licensed, certified or registered) in accordance with applicable Federal, State and local laws, and must act only within the scope of their State licenses, certifications, or registrations. All personnel qualifications must be kept current at all times.

(b) *Standard: Personnel qualifications for certain disciplines.* The following qualifications must be met:

(1) *Administrator of a CMHC.* A CMHC employee who meets the education and experience requirements established by the CMHC's governing body for that position and who is responsible for the day-to-day operation of the CMHC.

(2) *Clinical psychologist.* An individual who meets the qualifications at § 410.71(d) of this chapter.

(3) *Clinical Social worker.* An individual who meets the qualifications at § 410.73 of this chapter.

(4) *Social worker.* An individual who—

(i) Has a baccalaureate degree in social work from an institution accredited by the Council on Social Work Education, or a baccalaureate degree in psychology or sociology, and is supervised by a clinical social worker, as described in paragraph (b)(3) of this section; and

(ii) Has 1 year of social work experience in a psychiatric healthcare setting.

(5) *Mental health counselor.* A professional counselor who is certified and/or licensed by the State in which he or she practices, and has the skills and knowledge to provide a range of behavioral health services to clients. The mental health counselor conducts assessments and provides services in areas such as psychotherapy, substance abuse, crisis management, psychoeducation, and prevention programs.

(6) *Occupational therapist.* A person who meets the requirements for the

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definition of “occupational therapist” at § 484.4 of this chapter.

(7) *Physician.* An individual who meets the qualifications and conditions as defined in section 1861(r) of the Act, and provides the services at § 410.20 of this chapter, and has experience providing mental health services to clients.

(8) *Physician assistant.* An individual who meets the qualifications and conditions as defined in section 1861(s)(2)(K)(i) of the Act and provides the services, in accordance with State law, at § 410.74 of this chapter.

(9) *Advanced practice nurse.* An individual who meets the following qualifications:

(i) Is a nurse practitioner who meets the qualifications at § 410.75 of this chapter; or

(ii) Is a clinical nurse specialist who meets the qualifications at § 410.76 of this chapter.

(10) *Psychiatric registered nurse.* A registered nurse, who is a graduate of an approved school of professional nursing, is licensed as a registered nurse by the State in which he or she is practicing, and has at least 1 year of education and/or training in psychiatric nursing.

(11) *Psychiatrist.* An individual who specializes in assessing and treating persons having psychiatric disorders; is board certified, or is eligible to be board certified by the American Board of Psychiatry and Neurology, or has documented equivalent education, training or experience, and is fully licensed to practice medicine in the State in which he or she practices.

§ 485.910 Condition of participation: Client rights.

The client has the right to be informed of his or her rights. The CMHC must protect and promote the exercise of these client rights.

(a) *Standard: Notice of rights and responsibilities.* (1) During the initial evaluation, the CMHC must provide the client, the client’s representative (if appropriate) or surrogate with verbal and written notice of the client’s rights and responsibilities. The verbal notice must be in a language and manner that the client or surrogate understands. Written notice

must be understandable to persons who have limited English proficiency.

(2) During the initial evaluation, the CMHC must inform and distribute written information to the client concerning its policies on filing a grievance.

(3) The CMHC must obtain the client’s and/or the client representative’s signature confirming that he or she has received a copy of the notice of rights and responsibilities.

(b) *Standard: Exercise of rights and respect for property and person.* (1) The client has the right to—

(i) Exercise his or her rights as a client of the CMHC.

(ii) Have his or her property and person treated with respect.

(iii) Voice grievances and understand the CMHC grievance process; including but not limited to grievances regarding mistreatment and treatment or care that is (or fails to be) furnished.

(iv) Not be subjected to discrimination or reprisal for exercising his or her rights.

(2) If a client has been adjudged incompetent under State law by a court of proper jurisdiction, the rights of the client are exercised by the person appointed in accordance with State law to act on the client’s behalf.

(3) If a State court has not adjudged a client incompetent, any legal representative designated by the client in accordance with State law may exercise the client’s rights to the extent allowed under State law.

(c) *Standard: Rights of the client.* The client has a right to—

(1) Be involved in developing his or her active treatment plan.

(2) Refuse care or treatment.

(3) Have a confidential clinical record. Access to or release of client information and the clinical record client information is permitted only in accordance with 45 CFR parts 160 and 164.

(4) Be free from mistreatment, neglect, or verbal, mental, sexual, and physical abuse, including injuries of unknown source, and misappropriation of client property.

(5) Receive information about specific limitations on services that he or she will be furnished.