**GENERAL AFFIDAVIT UNDER OATH OF ISABELLE ZEHNDER**

**CONVERSATION WITH MAJESTIC RANCH**

I, ISABELLE ZEHNDER, declare and state as follows:

1. I, ISABELLE ZEHNDER ("Declarant"), am a resident of Battle Ground, County of Clark, State of Washington, and do hereby certify, swear or affirm, and declare that I am competent to give the following declaration based on my personal knowledge, unless otherwise stated, and that the following facts and things are true and correct to the best of my knowledge.

2. I telephoned Majestic Ranch requesting information about their program, specifically regarding children around age 8. I first spoke to the woman who answered the phone then to Personnel/Daily Living Director Wayne Winder.

3. I asked the woman who answered the phone (receptionist) if Majestic Ranch takes children with problems such as ADD/ADHD she said yes, they have therapists that come on-site, group sessions, and that family reps are trained to work with the children. She asked if medications would need to be administered. In my attempt to seek information for Debbie Kurzban of the Dept. of Licensing I answered yes. The receptionist told me that would be no problem.

4. I asked her the youngest age they would accept children into the program and was told when they achieved 2nd grade curriculum, typically at age 7.

5. When I asked the receptionist about education I was told children work independently and at their own pace, and that Majestic Ranch works with a company back east called Oak Meadows. Research revealed this is a home-schooling organization. She said teachers and teacher's aids are there to help the children.

6. I asked her how many children were at Majestic Ranch at one time and she responded 60-70.

7. When I asked about the interaction children have with animals, this woman told me they are allowed to do chores when they have reached upper-level status. Otherwise they have no interaction with the animals.

8. Then I asked her what forms of discipline they used at the program and she put me on hold for at least 2 minutes. Finally, a man came on the phone who identified himself as Wayne Winder.

9. Once Winder was on the phone I asked him what forms of discipline they used with the children and he told me they use the Mandt system. (However, when I later spoke to employees they indicated they had no formal training in this system.) I did some research re the Mandt system and discovered that training requirements in the Children's Health Act of 2000 (P.L. 106-310, Part 1, Section 595 (B)(1)(a,b), restraints or seclusion are imposed only in emergency circumstances and only to ensure the immediate physical safety of the resident, a staff member, or others and only when less restrictive interventions have been determined to be ineffective and the restraints or seclusion are imposed **only by an individual trained and certified by a state-recognized body ... in the prevention and use of physical restraints and seclusion**. (See "Exhibit A".) Further, in P.L. 106-310 (Part 1) (Section 595)(1)(b) training requirements must include a variety of methods and techniques (See "Exhibit B".) The Mandt System website indicates that:

> "It is important to note that physical restraint on the floor is taught only in the Advanced Program. It is not a part of the Intermediate Program. The risk of death due to restraint, positional, or compression asphyxiation is very high when using a floor restraint technique. The techniques taught by David Mandt & Associates are time limited to no more than 5 minutes in the standing restraint and one minute in a prone or supine restraint. The General Accounting Office estimates that 150 people per year in the United States die as a result of inappropriate application of restraint on the floor." (See page 4 of "Exhibit C".)

The Mandt System website also offers the "Best Practices" of David Mandt and Associates. Their assessment is that "there is nothing positive, other than the provision of safety, about restraint." Further, "Physical restraint is not positive except that it may prevent harm or injury. However, it can also cause trauma, physical as well as emotional or psychological. Restraint can cause death, **especially restraints that take place on the floor**." Finally, David Mandt and Associates believes that "taking people down for purposes of a floor restraint is prohibited. Floor restraints are only appropriate if used as a transition from the floor to a standing or sitting position when the individual has fallen to the floor. Physical restraint has no place in a behavior

support plan...the use of hyperextension of joints, pain compliance, pressure points and pain, hitting, pinching, slapping, and other forms of physical abuse are prohibited." (See "Exhibit D.")

10. I was told by Winder restraints are used when necessary, that children are made to shovel manure, that they use isolation as a form of punishment, that children are made to sit on a toilet and work on the countertop next to the Winder's office where he can watch them, and that they write accountability statements.

11. When I asked how long these children, ages 7-14, stay at the program, Winder told me the average stay is 12-18 months, however one child has been there for 23 months. He said the shortest time a child stayed at Majestic Ranch was 8 months.

12. Winder stated they operate the program on a level system. Children entering the program begin at level 1, no matter what their situation or behavior. Until children reach level 4, they are considered to have low-level status meaning privileges are few. Even the privilege to speak to another human being is extremely limited and monitored.

13. I asked Winder what children do for fun. I was told that higher-level children have been allowed to ski on occasion, to go to an amusement park, to play with a karaoke machine on the weekend, and to have dinner with a staff member. All children receive one hour of free time in the evening. Low-level children did not fare so well. They are only allowed to participate in karaoke and make Valentine's Day cards or participate in other craft projects. Television was not allowed on the premises except on Sundays when children were sometimes allowed to watch a movie. They were never allowed off-site for activities. And of course, they had the privilege of food, clothing, and shelter, I was told. That's it.

14. When I asked Winder about communication with the outside world I was told I would not like his response. If I sent a child to the facility I would not speak to my child anywhere from 3-6 months. They operate on a level system and once a child reaches level 3 they earn the privilege of one phone call from their parent per month. Once they reach level 4, they are allowed two phone calls per month. And once they reach level 5 they are allowed weekly phone

calls from parents, only. I was told they prefer communication via letters and that they believe phone calls are disruptive.

WITNESS my signature this 22nd day of February, 2005.

ISABELLE ZEHNDER

# EXHIBIT A

# The Mandt System®

An Overview of Services
Provided by
David Mandt and Associates

# The Mandt System®

- Changes made in 2002 to bring the program into full compliance with the Children's Health Act of 2000 (P.L. 106-310, Parts H and I)
- JCAHO and CARF made changes regarding use of restraint
- Council on Accreditation changes
- Pennsylvania Regulations
- NASHMPD Papers
- California Senate Office of Research
- Behavior Support Initiatives in various states
- SAMHSA "National Call to Action"

# Training Requirements in the Children's Health Act of 2000

- Restraint or seclusion are imposed only in emergency circumstances and
- Only to ensure the immediate physical safety of the resident, a staff member, or others and
- Only when less restrictive interventions have been determined to be ineffective and
- The restraints or seclusion are imposed only by an individual trained and certified,
- By a State-recognized body . . . In the prevention
- And use of physical restraints and seclusion

P.L. 106-310 Part I
Section 595 (B)(1)(a,b)

# EXHIBIT B

# Training Requirements in P.L. 106-310 (Part I)(Section 595)(1)(b) must include training in

- The needs and behaviors of the population served
- Relationship building
- Alternatives to restraint and seclusion
- De-escalation methods
- Avoiding power struggles
- Thresholds for restraint and seclusion
- Physiological and psychological impact of restraint and seclusion
- Monitoring physical signs of distress and obtaining medical assistance
- Legal issues
- Position asphyxia
- Escape and evasion techniques

# EXHIBIT C

# Types of Training

**The Training**

The Mandt System® presents a system of gradual and graded alternatives for de-escalating and managing people, using a combination of interpersonal communication skills and physical interaction techniques designed to reduce injury to all the participants in an encounter.

**Basic Level Modules+**

We designed the Basic Level Modules for you if you interact on a daily basis with people who, for the most part, are cooperative. We feel that the Basic Level Modules provide an adequate level of interpersonal interaction skills for use in most of these situations. The most important part of any crisis interaction training is having the proper attitude and philosophy. Therefore, we stress the importance of de-escalating and interacting with people - not controlling them. If you can manage and control yourself, you can better interact with other people. We believe that all individuals should be seen as people first. We believe in the principle that all people have the right to be treated with dignity and respect, the right to personal identity, the right to normalization and the right to the least restrictive and most appropriate environment.

Module 1 - Building Healthy Relationships
. Foundational Beliefs
. Working as a Team
. Understanding and Working with Emotions
. Behavior Support and Supporting People
. Understanding Stress
. Crisis Cycle

Module 2 - Building Communication
. The Communication Process
. Nonverbal Elements in Communication
. Vocal Elements in Communication
. Verbal Elements in Communication: Strategies for De-Escalation

Module 3 - Conflict Resolution - Problem Solving
. The SODAS Method of Conflict Resolution
. Communication and Relationships

**Intermediate Level Modules+**

The Intermediate Level Modules are designed for you if you interact on a daily basis with people who may become uncooperative and/or confused. We feel that the Intermediate Level Modules provide an adequate level of interpersonal interaction and physical skills for use in most situations. We emphasize the use of a gradually progressive system of alternatives that involves the least restrictive means of interpersonal and physical interaction. The interpersonal skills from the Basic Level Modules are reviewed and practiced, but emphasis is placed on learning appropriate physical skills while maintaining a high level of dignity and respect.

Module 1 - Building Conflict Resolution II

. Definitions of Conflict
. Origins of Conflict
. Understanding Conflict Cycles
. Understanding Attitudes about Conflict
. Perceptions and Conflict

Module 2 - Behavior Support

. Two Views of Behavior
. Antecedent – Behavior – Consequence Model
. Setting Events
. Relationships and Behavior
. Understanding Positive Behavior Intervention and Supports
. Assessments
. Intervention Strategies
. The Crisis Cycle and Behavior Support Interventions

Module 3 - Assisting

. Implementation of Physical Interaction Skills
. Introduction to Assisting
. Stance and Balance
. Body Mechanics and Movements
. Body Positioning
. One - and Two-Person Assisting
. One - and Two-Person Supporting

Module 4 - Separating

. Physical Interaction Concepts
. Non-Physical Ways of Separating
. Physical Releases from Holds
. Biting
. Hair Pulling
. Clothing Holds
. Finger Holds
. Separating Two People Who Are Fighting

Module 5 - Physical Restraint

. Restraint Usage and Associate Injuries
. Risk Factors Associated with Restraint
. Minimizing Risk and Injury
. Three Types of Asphyxiation Associated with Restraint
. Monitoring Restraint Usage
. Standing Restraints
. Restraints of Children
. Moving People During Restraint
. Time Limits When Restraint is Used

Module 6 - Liability and Legal Issues

. Defining Liability
. Standards of Care
. Personal Liability and the Basis for Litigation
. Supervisory and Organizational Liability
. Reasonable Person Standard

. Reducing Exposure to Lawsuits

**Topics in the Advanced Level Trainer Course+**

The purpose of the Advanced Trainer Course is not to offer a new philosophy or to provide you with all the answers to problems currently faced by your agency. We will, however, provide the opportunity to deepen your skill level in the application of techniques for dealing with people with serious (violent) chronic problems, and to broaden your perspective on how to provide better, safer care by approaching the task systemically. The primary purpose of this course is to teach advanced skills that are consistent with our philosophy. All people deserve to be treated with dignity and respect. We understand why pain escalates people and how important it is to go with the person and not fight force with force.

**The Advanced Program of The Mandt System® consists of six (6) modules:**

Building Conflict Resolution III
. Understanding and Assessing Dangerousness
. Violence Assessment Characteristics
. Assessing the Threat Level
. De-Escalating Violence
. Approaching People in Violent Conflict (Nonphysical)
. Approaching People in Violent Conflict (Physical)
. Steps for Responding to Violence
. Group Disturbances
. Hostage Negotiation
. Developing Your Style for Working with Violence

Changing a Person's Space
. Implementation of Physical Interaction Skills
. Medical Issues
. Restraint Usage and Associated Injuries
. Medical or Psychiatric Assessments
. Monitoring, Assessment, and Maintenance of Physical Integrity
. Proactive Interaction

Advanced Physical Restraint
. Implementation of Physical Interaction Skills
. Prohibited Practices for Restraints
. Restraint Usage and Associated Injuries
. Medical Issues Related to Restraint and Seclusion
. Monitoring, Assessment, and Maintenance of Physical Integrity During Restraint and Seclusion
. Emergency Response to Restraint-Precipitated Emergencies
. Compression, Positional, and Restraint Asphyxiation
. Prone and Supine Transitional Restraint

Seclusion and Mechanical Restraint
. Standards of Care for Seclusion/Isolation
. Philosophy of Caregiving
. Training for Use of the Seclusion Room

. Characteristics of a Safe Seclusion Room
. Implementation of Physical Interaction Skills
. Prohibited Practices for Restraints
. Restraint Usage and Associated Injuries
. Medical Issues Related to Restraint and Seclusion
. Monitoring, Assessment, and Maintenance of Physical Integrity During Restraint and Seclusion
. Minimal Requirements for Comfort and Physical Integrity
. Emergency Response to Restraint-Precipitated Emergencies
. Compression, Positional, and Restraint Asphyxiation
. Mechanical Restraint

Unarmed and Armed Attacks
. Implementation of Physical Interaction Skills
. Proactive Interaction
. Choking
. Punching
. Thrown Objects
. Swung Objects
. Jabbed Objects
. Stage Five: Recovery

Building Recovery by Debriefing
. Trauma Producing Events
. Trauma Effects and Post-Traumatic Stress Disorder
. Assessment of Trauma Effects
. The SAFER Model: A Response to Trauma
. The Recovery Process - Intervention with Trauma
. Proactive Steps
. The Process of Fact Finding

**It is important to note that physical restraint on the floor is taught only in the Advanced Program**. It is not a part of the Intermediate program. The risk of death due to restraint, positional, or compression asphyxiation is very high when using a floor restraint technique. The techniques taught by David Mandt & Associates are time limited to no more than 5 minutes in a standing restraint and one minute in a prone or supine restraint. The General Accounting Office estimates that 150 people per year in the United States die as a result of inappropriate application of restraint on the floor.

# EXHIBIT D

# BEST PRACTICES
# DAVID MANDT AND ASSOCIATES

At times, the behavior of individuals served may pose a threat of harm to self or others, in spite of the best efforts of all involved to use positive, non-aversive intervention strategies. When this happens, physical interaction may be needed to protect people from harm.

We agree with TASH, TheArcLink, and others that restraint has no programmatic or therapeutic value. **There is nothing positive, other than the provision of safety, about restraint**. The use of restraint, seclusion and other invasive/aversive interventions represents treatment failure, not treatment. The failure is at a systemic and not a personal level. Unless the intervention was abusive or neglectful, staff use restraint in the context of the training they received from the organization.

At the present time, there are no standards on what is or is not acceptable practice, let alone "Best Practice" for the use of physical restraint. Physical restraint is not positive except that it may prevent harm or injury. However, it can also cause trauma, physical as well as emotional or psychological. Restraint can cause death, especially restraints that take place on the floor.

A Positive Behavior Interventions and Support approach must address the issue of (1) whether or not to authorize the use of physical restraint, and, if so, what precipitating factors may call for the use of physical restraint; and (2) what techniques should not be used in physical restraint (on the floor, hyperextending joints, causing pain, etc.)

We believe that there may be times when physical interaction is needed to protect an individual from harming themselves and/or others. When physical interaction with others is needed to restrict or limit an individual's behavior, the specific skills must:

- Be used only after non-physical interaction has proven ineffective in maintaining the safety of all persons
- Maintain the normal range of motion for the individual (no hyperextension of joints) and minimize bruising, injury, or pain by specific design
- Used for a recommended maximum of one minute, with a five minute maximum time in manual restraint
- Authorized after the person empowered to authorize the use of a restraint and/or seclusion technique has experienced its' use.
- Only be used to protect people from seriously harming themselves and/or others.
- Authorized for use only until the need for protection is over or up to a maximum time of 5 minutes

David Mandt and Associates further believes that:

- "Taking people down" for purposes of a floor restraint is prohibited
- Floor restraints are only appropriate if used as a transition from the floor to a standing or sitting position when the individual has fallen to the floor.
- Physical restraint has no place in a behavior support plan (not to used as a response to non-compliance or task avoidance behavior)
- The use of hyperextension of joints, pain compliance, pressure points and pain, hitting, pinching, slapping, and other forms of physical abuse are prohibited.
- David Mandt and Associates will work with any and all organizations on a collaborative basis to find ways to minimize, if not eliminate, the need for and use of physical restraint.
- After each use of restraint, the team, including the individual served and/or their legal guardian, must participate in processing what events led up to the use of restraint, and what can be done in similar circumstances in the future so restraint is not needed.