SECLUSION AND RESTRAINT PROVISIONS

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Definition of Restraint

Use of a

- mechanical device,
- medication,
- physical interventions, or
- hands-on hold

to prevent an individual from moving his body

Three Kinds of Restraint

- Mechanical Restraint
- Pharmacological Restraint
- Physical Restraint (Manual Hold)

Definition of Physical Restraint

Also referred to as “Manual Hold”

- use of a physical intervention or hands-on hold
- to prevent an individual from moving his body

Purposes for Restraint

- Behavioral Purposes
- Medical Purposes
- Protective Purposes

Definition of Seclusion

involuntary placement of an individual **alone** an area **secured by a door** that is:

- Locked or
- Held shut by a staff person or
- Physically blocked by person or object or
- Blocked by verbal means

Definition of Time Out

- Involuntary removal
- From source of reinforcement
- To open location
- For specified period of time or
- Until problem behavior subsides

Exemptions

- Voluntary use of mechanical supports for proper body position, balance, or alignment

AND

- Voluntary use of protective equipment

Use of Mechanical Support

Must

- Allow greater freedom of movement or
- Improve normal body functioning and
- Improvements not possible without the use mechanical support.

Provider's Duties

- Meet with individual or AR upon admission
- Discuss preferred interventions and
- If and when seclusion, restraint, or time out may be used

Documenting Contraindications

- Document in service record
- All known contraindications to seclusion, time out, and restraint,
  - *medical contraindications* and
  - a *history of trauma*
- Flag the record

Who May Use Seclusion

- Residential facilities for children licensed under the Regulations for Providers of Mental Health, Mental Retardation, and Substance Abuse Residential Services for Children (12 VAC 35-45)

and

- Inpatient hospitals.

Prohibitions for Use of Seclusion, Restraint and Time-out

Shall not use

- As a punishment or
- As reprisal or
- For convenience of staff or
- Pending criminal charges

Requirement to Consider Less Restrictive Alternatives

May not use seclusion or restraint unless:

- Less restrictive techniques considered

AND

- Documentation that techniques were not or would not be effective

OR

- Less restrictive measure not possible due to emergency

Written Policies & Procedures Required

Must comply with applicable

- federal and state laws, and regulations,
- accreditation, and certification standards,
- third party payer requirements, and
- sound therapeutic practice.

Requirements for Policies and Procedures

Shall include all of following:

- opportunity for motion and exercise,
- eat at normal meal times and
- take fluids,
- use the restroom, and
- bathe as needed.

Policies and Procedures for Staff Monitoring

Trained, qualified staff shall monitor the individual's medical and mental condition continuously while the restriction is being used.

Policies and Procedures for Ending Seclusion and Restraint

Each use of seclusion, restraint, or time out shall end immediately when criteria for removal are met.

Policies and Procedures for Reporting Seclusion and Restraint

Incidents of seclusion and restraint, including the rationale for and the type and duration of the restraint, are reported to the department as provided in 12 VAC 35-115-230 C.

Submission of Policies and Procedures to LHRC

Providers shall submit all proposed seclusion, restraint, and time out policies and procedures to LHRC for review and comment

- before implementing them,
- when proposing changes, or
- upon request of the human rights advocate, the LHRC, or the SHRC.

Compliance With Applicable Laws

Providers shall comply with all applicable

- state and federal laws and regulations,
- certification and accreditation standards, and
- third party requirements

as they relate to seclusion and restraint.

Inconsistencies in Laws and Regulations

If inconsistency between HR regulations &

- Federal laws
- Federal regulations,
- Accreditation or certification standards, or
- The requirements of third party payers,

Provider must comply with the higher standard.

Duty to Report Compliance Problems

Providers must notify the department whenever a regulatory, accreditation, or certification agency or third party payer identifies problems in the provider's compliance with any applicable seclusion and restraint standard.

Trained Staff

Only staff trained in proper and safe use of seclusion, restraint, and time out may

- initiate, and
- monitor, and
- discontinue use.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

11. Providers shall ensure that a qualified professional who is involved in providing services to the individual

- reviews every use of physical restraint as soon as possible after it is carried out and
- documents the results of his review in the individual's services record.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

12. Providers shall ensure that review and approval by a qualified professional for the use or continuation of restraint for medical or protective purposes is documented in the individual's services record. Documentation includes:

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

a. Justification for any restraint;

b. Time-limited approval for the use or continuation of restraint; and

c. Any physical or psychological conditions that would place the individual at greater risk during restraint.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

13. Providers may use seclusion or mechanical restraint for behavioral purposes:

- in an emergency AND
- only if a qualified professional involved in providing services to the individual has, within one hour of the initiation of the procedure:

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

a.

- Conducted a face-to-face assessment of the individual placed in seclusion or mechanical restraint AND
- documented that alternatives to the proposed use of seclusion or mechanical restraint
  - * have not been successful in changing the behavior or
  - * were not attempted,

  taking into account the individual's medical and mental condition, behavior, preferences, nursing and medication needs, and ability to function independently;

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

b. Determined that the proposed seclusion or mechanical restraint is necessary to protect the individual or others from harm, injury, or death;

c. Documented in the individual's services record the specific reason for the seclusion or mechanical restraint;

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

d. Documented in the individual's services record the behavioral criteria that the individual must meet for release from seclusion or mechanical restraint; and

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

e. Explained to the individual, in a way that he can understand, the reason for using mechanical restraint or seclusion, the criteria for its removal, and the individual's right to a fair review of whether the mechanical restraint or seclusion was permissible.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

14. Providers shall limit each approval for restraint for behavioral purposes or seclusion to

- Four hours for individuals age 18 and older,
- two hours for children and adolescents ages 9 through 17, and
- one hour for children under age nine.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

15. Providers shall not issue standing orders for the use seclusion or restraint for behavioral purposes.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

16. Providers shall ensure that no individual is in time out for more than 30 minutes per episode.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

17. Providers shall monitor the use of restraint for behavioral purposes or seclusion through continuous face-to-face observation, rather than by an electronic surveillance device.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

18. Providers may use restraint or time out in a behavioral treatment plan to address behaviors that present an immediate danger to the individual or others, but only after a qualified professional has conducted a detailed and systematic assessment of the behavior and the situations in which the behavior occurs.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

a. Providers shall develop any behavioral treatment plan involving the use of restraint or time out for behavioral purposes according to its policies and procedures, which ensure that:

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

(1) Behavioral treatment plans are initiated, developed, carried out, and monitored by professionals who are qualified by expertise, training, education, or credentials to do so.

AND

(2) Behavioral treatment plans include nonrestrictive procedures and environmental modifications that address the targeted behavior.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

AND

(3) Behavioral treatment plans are submitted to and approved by an independent review committee comprised of professionals with training and experience in applied behavior analysis who have assessed the technical adequacy of the plan and data collection procedures.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

b. Providers shall document in the individual's services record that the lack of success, or probable success, of less restrictive procedures attempted and the risks associated with not treating the behavior are greater than any risks associated with the use of restraint.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

c. Prior to the implementation of any behavioral treatment plan involving the use of restraint or time out, the provider shall obtain approval of the LHRC. If the LHRC finds that the plan violates or has the potential to violate the rights of the individual, the LHRC shall notify and make recommendations to the director.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

d. Behavioral treatment plans involving the use of restraint or time out shall be reviewed quarterly by the independent review committee and by the LHRC to determine if the use of restraint has resulted in improvements in functioning of the individual.

Use of seclusion, restraint, and time out. 12 VAC 35-115-110

19. Providers may not use seclusion in a behavioral treatment plan.