Virginia Department of Behavioral Health & Developmental Services

Restrictions, Behavioral Treatment Plans, & Restraints

Office of Human Rights Training Series

Purpose

- To ensure licensed providers are fully knowledgeable of regulatory requirements concerning the implementation of restrictions, behavioral treatment plans, and restraints, including:
  - a clear interpretation of key terms; and,
  - understanding of internal human rights processes aligned with the Regulations.

12VAC35-115-30. Definitions

What is a restriction?

Anything that **limits** or **prevents** an individual from **freely exercising his rights and privileges**.

Restrictions & Dignity

12VAC35-115-50

- Implementation of a restriction concerning the dignity of an individual must be assessed and the need for the restriction determined by a licensed professional and reviewed every month and documented in the services record, **PRIOR** to implementation:
  - licensed physician
  - licensed clinical psychologist
  - licensed professional counselor
  - licensed clinical social worker
  - licensed or certified substance abuse treatment practitioner
  - licensed psychiatric nurse practitioner

Restrictions & Dignity

- Use of preferred or legal name
  - demonstrable harm?
  - significant negative impact on program or other individuals?
- Specific to residential and inpatient providers:
  - Religious practices/services
    - dangerous?
    - interference with others freedoms?
  - Mail
    - demonstrable, harmful communication?
  - Telephone use
    - demonstrable, harmful communication?
  - Visitation
    - demonstrable harm?
    - interference with treatment?
    - source of contraband

Restrictions & Freedoms

12VAC35-115-100

- Individuals are entitled to freedoms consistent with needs for:
  - services
  - protection of self
  - protection of others
  - uninterrupted services
- Services must be delivered in the least restrictive setting.

Restrictions & Freedoms

- Freedoms of everyday life include the freedom to:
  - Move within the service setting, its grounds, and community
  - Communicate, associate, privately meet with anyone
  - Have and spend personal money
  - See, hear, or receive TV, radio, books, newspapers
  - Keep and use personal clothing, personal items
  - Use recreational facilities, enjoy the outdoors
  - Make purchases in canteens, vending machines, stores selling a basic selection of food and clothing

Restrictions & Freedoms

- Restrictions must be justified and meet the following conditions:
  - pre-assessment, documentation by a qualified professional
    - possible alternatives
    - restriction necessary
    - reason for the restriction
    - restriction explained
    - written notice provided
      - reason
      - criteria for removal
      - right to fair review
- Restrictions which are court ordered, or required by law, must be documented in the services record.

Implementing Restrictions

- Restrictions are context-dependent.
- A restriction for one person, may be support for another.
- Conversations about restrictions should be person-centered and take place with individuals, AR's, support coordinators, other treatment team members and the Advocate.
- Can a legal guardian override a provider and implement a restriction?

Implementing Restrictions

- Use of restrictions must be **reviewed and approved** by the LHRC when:
  - the restriction lasts longer than 7 days
  - the restriction is imposed three or more times during a 30-day time period
- The *Restrictions to Dignity and Freedoms of Everyday Life Request for LHRC Review* form must be completed.
- The LHRC will provide recommendations for appropriate implementation of restrictions, according to the Regulations.

Virginia Department of Behavioral Health & Developmental Services

Slide 10

LHRC Review Form: Restrictions

Virginia Department of Behavioral Health & Developmental Services

Restrictions to Dignity and Freedoms of Everyday Life
Request for LHRC Review

Individual's Identifier: _____ Provider: _____ Service(s): _____

Date of Admission: _____

Date of Discharge (if applicable):

Type of Review: ☐ New Restrictions ☐ Revised ☐ LHRC- requested Review

For Restrictions under Dignity, (section 50):	
Was the Human Rights Advocate notified of the reason for the restriction prior to implementation?	☐ Yes ☐ No
Did a licensed professional document in the service record that demonstrable harm will result without the restriction?	☐ Yes ☐ No
Is the need for the restriction reviewed by the team monthly and documented in the individual's services record?	☐ Yes ☐ No
Will the restriction last longer than seven days or be imposed three or more times during a 30-day period?	☐ Yes ☐ No
For Restrictions under Freedoms of Everyday Life, (section 100):	
Did a qualified professional involved in providing services, in advance, assess the need for the restriction and document all possible alternatives to the restriction?	☐ Yes ☐ No

LHRC Review Form: Restrictions

Did a qualified professional involved in providing services document in the individual's services record the specific reason for the restriction?	☐ Yes ☐ No
Did a qualified professional involved in providing services explain and provide written notice so the individual can understand the reason for the restriction, the criteria for removal, and the individual's right to a fair review of whether the restriction is permissible? (please attach the written notice)	☐ Yes ☐ No
Does a qualified professional regularly review the restriction and the restriction is discontinued when the individual has met the criteria for removal?	☐ Yes ☐ No
Is the restriction a result of a court order?	☐ Yes ☐ No
Will the restriction last longer than seven days or be imposed three or more times during a 30-day period?	☐ Yes ☐ No

List ALL restrictions:

Purpose of Restriction	List Less Restrictive Interventions Attempted	List All Restrictions	Criteria for Removal for Each Restriction

Name of LHRC _____ LHRC Chair Signature _____

Recommendations: _____

Page 1 of 1

12VAC35-115-30. Definitions

What are program rules?

Operational rules and expectations that providers establish to promote the general safety and well-being of **all individuals** in the program and to set standards for how individuals will interact with one another in the program.

Program rules
- include expectations that produce consequences
- may be included in a handbook, policies
- must be provided to all individuals

Program Rules

- DO's
  - Develop for safety and order
  - Get suggestions from individuals
  - Apply the rules the same for each individual
  - Give and review rules with individuals and AR
  - Post rules in all regularly accessed areas
  - Submit for LHRC review, if requested
  - Prohibit individuals from disciplining each other
- DON'T's
  - Contradict the Regulations
  - Conflict with any individual's ISP

Knowledge Check

1. A restriction concerning dignity can be implemented prior to the need for the restriction being assessed by a licensed professional.
   a. True
   b. False
2. The need for restrictions concerning freedoms of everyday life must be determined by a licensed professional.
   a. True
   b. False
3. Restrictions occurring 3 or more times within a 30 day period, or lasting longer than 7 days must be reviewed by the LHRC.
   a. True
   b. False

12VAC35-115-30. Definitions

What is a behavioral treatment plan (BTP)?

Any set of documented procedures that are an **integral** part of the individualized services plan and are developed on the basis of a systematic data collection, such as a functional assessment, for the purpose of assisting an individual to achieve:

1. Improved behavioral functioning and effectiveness;
2. Alleviation of symptoms of psychopathology; or,
3. Reduction of challenging behaviors.

Behavioral Treatment Plans (BTP)

12VAC35-115-105

- Regarding the use of restrictions or time out in a BTP, the plan must:
  - Be individualized.
  - Address maladaptive behaviors that pose immediate danger.
  - Have been developed after a systematic assessment by a **licensed professional** or **licensed behavior analyst**.
  - Be reviewed by an **independent review committee** before implementing.
- Be mindful to consider the behavior management program/protocol (e.g., TOVA, MANDT, etc.).

Behavioral Treatment Plans (BTP)

- BTP's that involve the use of restraint or time out have additional review requirements:
  - Intermediate care facilities (ICF) for ID individuals require specially constituted committee (SCC) approval prior to implementation.
    - The independent review committee approval must be submitted to the SCC.
  - All other providers serving ID individuals must submit the BTP and independent review committee approval to the LHRC, prior to implementation.
  - Plans must be reviewed quarterly by the independent review committee, and the LHRC or SCC.
- The use of seclusion is not permitted in a BTP.

Behavioral Treatment Plans Quality Review

- Practice Guidelines for BSPs/BTPs
  - Regulatory guidance for services offered through therapeutic consultation
  - Helps in keeping you aware of the importance of data collection, treatment fidelity
  - Provides literature on trauma informed care, person-centered practices, positive behavior supports
- DBHDS Behavior Support Plan Adherence Review Instrument (BSPARI)
- DBHDS Office of Integrated Health (OIH)

Virginia Department of Behavioral Health & Developmental Services

Slide 19

LHRC Review Form: BTP

Virginia Department Behavioral Health & Developmental Servic

Behavioral Treatment Plan (BTP) with Restraint or Time-Out
Request for LHRC Review

Individual's Identifier: _____ Provider: _____ Service(s): _____

Date of Behavior Treatment Plan:

Reviewed by Independent Review Committee on:

Independent Review Committee Recommendations If any:

Informed consent details (date/decision-maker):

Type of Plan: ☐ New BTP ☐ Quarterly ☐ Revision

Were less restrictive alternatives implemented or attempted prior to the development of this plan. If yes, provide details:	☐Yes ☐No
BTP initiated, developed, carried out, and monitored by professionals who are qualified by expertise, training, education, or credentials to do so. If yes, provide credential, training and education details of staff involved:	☐Yes ☐No
Does the BTP also include nonrestrictive procedures and environmental modifications that address targeted behaviors? If yes, provide details:	☐Yes ☐No
Does the BTP have restrictions? If yes, attach completed *Restrictions to Dignity and Freedoms of Everyday Life* LHRC Review Request Form	☐Yes ☐No

LHRC Review Form: BTP

List ALL restraints and time outs:

Target Behavior	Less restrictive alternatives	List ALL restraint or time out procedures including type and parameters for use	Page number from Plan

If requested by the LHRC or otherwise required by regulation, indicate date of planned update: _____

Name of LHRC		LHRC Chair Signature

Recommendations:

Knowledge Check

1. The key to a well developed BTP is in conducting a detailed and systematic assessment of behaviors and the situations in which they occur.
   a. True
   b. False

2. BTPs that include restraint and/or time out must be reviewed monthly by the independent review committee and LHRC or SCC.
   a. True
   b. False

3. BTPs containing restraint and/or time out must be reviewed by the independent review committee prior to implementation.
   a. True
   b. False

12VAC35-115-30. Definitions

What is seclusion?

The involuntary placement of an individual alone in an area secured by a door that is locked or held shut by a staff person, by physically blocking the door, or by any other physical or verbal means, so that the individual cannot leave.

Community providers may not use seclusion, unless they are licensed as a children's residential facility or inpatient hospital, and only then, if they have approved polices.

12VAC35-115-30. Definitions

What is time out?

The involuntary removal of an individual by a staff person from a source of reinforcement to a different, open location for a specified period of time or until the problem behavior has subsided to discontinue or reduce the frequency of problematic behavior.

12VAC35-115-30. Definitions

What is restraint?

The use of a mechanical device, medication, physical intervention, or hands-on hold to prevent an individual from moving his body to engage in a behavior that places him or others at **imminent risk**.

- There are three types of restraint:
  - Mechanical restraint
  - Pharmacological restraint
  - Physical restraint

Restraints

12VAC35-115-110

- The voluntary use of supports for body positioning and/or greater freedom of movement, or voluntary use of protective equipment **ARE NOT** restraints.
- Providers must discuss with the individual and AR the preferred intervention(s) at the time of admission.
- Contraindications must be documented in the services record.
- Use of restraint is not to be used as punishment.
- Restraints cannot place the individual in a prone (face down) position.

Restraints

12VAC35-115-110

- Restraints for behavioral, medical, or protective purposes are not allowed until less restrictive measures have been explored and documented in the services record.
- The provider must have internal policies/procedures for the use of restraints, i.e., behavior management.
  - Staff must be trained to engage in use of restraint.
- The restraint must be reviewed and results documented in the services record as soon after the restraint as possible.
- Standing orders may not be issued for the use of restraints.

Mechanical Restraint

The use of a mechanical device, that cannot be removed by the individual, to restrict the freedom of movement or functioning of a limb or a portion of an individual's body when that behavior places him or others at imminent risk.

- Examples: Seat belt, helmet, arm splints

Pharmacological Restraint

The use of a medication that is administered involuntarily for the emergency control of an individual's behavior when that individual's behavior places him or others at **imminent risk** and the administered medication is not a standard treatment for the individual's medical or psychiatric condition.

Physical Restraint

The use of a physical intervention or hands-on hold (manual hold) to prevent an individual from moving his body when that individual's behavior places him or others at imminent risk.

❖ **Refer to your agency's Behavior Management protocol, policy, and training.**

Restraint for Behavioral Purposes

Using a physical hold, medication, or a mechanical device to control behavior or involuntarily restrict freedom of movement of an individual in an instance when all of the following conditions are met:

- There is an emergency.
- Nonphysical interventions are not viable.
- Safety issues require an immediate response.

Restraint for Medical Purposes

Using a physical hold, medication, or mechanical device to limit mobility of an individual for medical, diagnostic, or surgical purposes, such as routine dental care or radiological procedures and related post-procedure care processes, when use of the restraint is not the accepted clinical practice for treating the individual's condition.

Restraint for Protective Purposes

Use of a mechanical device to compensate for a physical or cognitive deficit when the individual does not have the option to remove the device. Additionally:

- The device may limit an individual's movement, such as:
  - bed rails
  - a geri-chair
- The device may prevent possible harm or create a passive barrier, such as:
  - a helmet

Additional Information on Restraints

Not all restraints require LHRC approval; and, not all restraints require a report in CHRIS.

- Only restraints that are included in a BTP require IRC and (SCC or) LHRC approval.
- Providers should only report improper uses of restraint and those restraints resulting in an allegation of abuse or neglect in CHRIS.

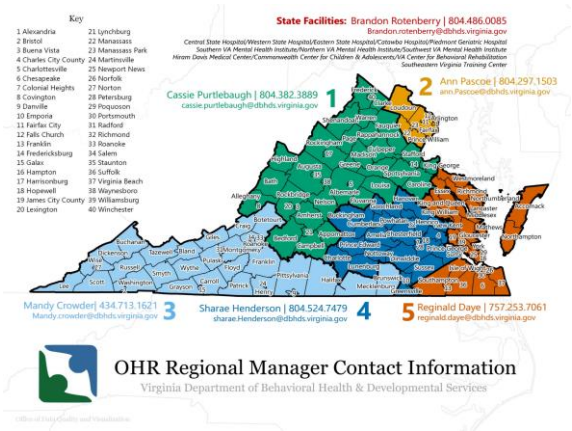
Knowledge Check

1. When an individual voluntarily chooses to use a support, the support is still considered a restraint.
   a. True
   b. False
2. Any instance of restraint and seclusion must be reported to the OHR by January 15th, annually.
   a. True
   b. False
3. Restraints for behavioral purposes can only be implemented when verbal de-escalation does not work.
   a. True
   b. False

Resources

DBHDS website
www.dbhds.virginia.gov

- To access OHR, select
  - **Offices**
  - **Human Rights**
- The *Regulations* can be accessed through Virginia's Legislative Information System (LIS) at https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/
- Join the DBHDS Provider Network Listserv by selecting the Licensing check box at https://bit.ly/2ZpumCx.
- DD listserv



OHR Central Office Contacts

Carlton J. Henderson
Training & Development Coordinator
carlton.henderson@dbhds.virginia.gov

Mary Clair O'Hara
Associate Director, Facility Operations
mary.ohara@dbhds.virginia.gov

Jennifer Kovack
Associate Director, Community Operations
jennifer.kovack@dbhds.virginia.gov

Taneika Goldman
State Human Rights Director
taneika.goldman@dbhds.virginia.gov

Virginia Department of Behavioral Health & Developmental Services

Slide 38