

2960.0710 RESTRICTIVE PROCEDURES CERTIFICATION.

Subpart 1. **Certification required.** A license holder who wishes to use a restrictive procedure with a resident must meet the requirements of this part to be certified to use restrictive procedures with a resident.

Subp. 1a. **Department of Corrections; seclusion prohibited.** Facilities licensed by the commissioner of corrections are prohibited from using seclusion as a restrictive procedure.

Subp. 2. **Restrictive procedures plan required.** The license holder must have a restrictive procedures plan for residents that is approved by the commissioner of human services or corrections, and the plan must provide at least the following:

A. the plan must list the restrictive procedures, including listing and describing all safety-based separations that may be used, and describe the physical holding techniques that the program will use;

B. how the license holder will monitor and control the emergency use of restrictive procedures;

C. a description of the training that staff who use restrictive procedures must have prior to staff implementing the emergency use of restrictive procedures, which includes at least the following:

- (1) the needs and behaviors of residents;
- (2) relationship building;
- (3) alternatives to restrictive procedures;
- (4) de-escalation methods;
- (5) avoiding power struggles;
- (6) documentation standards for the use of restrictive procedures;
- (7) how to obtain emergency medical assistance;
- (8) time limits for restrictive procedures;
- (9) obtaining approval for use of restrictive procedures;
- (10) requirement for updated training at least every other year; and
- (11) the proper use of the restrictive techniques approved for the facility;

D. the license holder must prepare a written review of the use of restrictive procedures in the facility at least annually; and

E. the license holder must ensure that the resident receives treatment for any injury caused by the use of a restrictive procedure.

Subp. 3. **Department of Human Services licensed facilities.** License holders who are licensed by the Department of Human Services and certified by the Department of Human Services to provide residential treatment for children with a severe emotional disturbance and children in need of shelter care may seek certification to use one or more of the following restrictive procedures:

- A. physical escort;
- B. physical holding;
- C. seclusion; and
- D. the limited use of mechanical restraint only for transporting a resident.

Subp. 4. **Department of Corrections-licensed facilities.** License holders that are licensed by the commissioner of corrections may seek certification to use one or more of the following restrictive procedures:

- A. physical escort;
- B. physical holding;
- C. mechanical restraints; and
- D. safety-based separation.

Subp. 5. **Physical escort requirements.** The physical escort of a resident is intended to be a behavior management technique that is minimally intrusive to the resident. It is to be used to control a resident who is being guided to a place where the resident will be safe and to help de-escalate interactions between the resident and others. A license holder who uses physical escort with a resident must meet the following requirements:

- A. staff must be trained according to subpart 2, item C;
- B. staff must document the use of physical escort and note the technique used, the time of day, and the name of the staff person and resident involved; and
- C. the use of physical escort must be consistent with the resident's case plan or treatment plan.

Subp. 6. **Use of physical holding or seclusion.** Physical holding and seclusion are behavior management techniques which are used in emergency situations as a response to imminent danger to the resident or others and when less restrictive interventions are determined to be ineffective. The emergency use of physical holding or seclusion must meet the conditions of items A to M:

- A. an immediate intervention is necessary to protect the resident or others from physical harm;
- B. the physical holding or seclusion used is the least intrusive intervention that will effectively react to the emergency;
- C. the use of physical holding or seclusion must end when the threat of harm ends;

D. the resident must be constantly and directly observed by staff during the use of physical holding or seclusion;

E. the use of physical holding or seclusion must be used under the supervision of a mental health professional or the facility's program director;

F. physical holding and seclusion may be used only as permitted in the resident's treatment plan;

G. staff must contact the mental health professional or facility's program director to inform the program director about the use of physical holding or seclusion and to ask for permission to use physical holding or seclusion as soon as it may safely be done, but no later than 30 minutes after initiating the use of physical holding or seclusion;

H. before staff uses physical holding or seclusion with a resident, staff must complete the training required in subpart 2 regarding the use of physical holding and seclusion at the facility;

I. when the need for the use of physical holding or seclusion ends, the resident must be assessed to determine if the resident can safely be returned to the ongoing activities at the facility;

J. staff must treat the resident respectfully throughout the procedure;

K. the staff person who implemented the emergency use of physical holding or seclusion must document its use immediately after the incident concludes. The documentation must include at least the following information:

(1) a detailed description of the incident which led to the emergency use of physical holding or seclusion;

(2) an explanation of why the procedure chosen needed to be used to prevent or stop an immediate threat to the physical safety of the resident or others;

(3) why less restrictive measures failed or were found to be inappropriate;

(4) the time the physical hold or seclusion began and the time the resident was released;

(5) in at least 15-minute intervals during the use of physical holding or seclusion, documentation of the resident's behavioral change and change in physical status that resulted from the use of the procedure; and

(6) the names of all persons involved in the use of the procedure and the names of all witnesses to the use of the procedure;

L. the room used for seclusion must be well lighted, well ventilated, clean, have an observation window which allows staff to directly monitor a resident in seclusion, fixtures that are tamperproof, with electrical switches located immediately outside the door, and doors that open out and are unlocked or are locked with keyless locks that have immediate release mechanisms; and

M. objects that may be used by a resident to injure the resident's self or others must be removed from the resident and the seclusion room before the resident is placed in seclusion.

Subp. 7. **Use of mechanical restraints.** Mechanical restraints are a behavior management device which may be used only when transporting a resident or in an emergency as a response to imminent danger to a resident or others and when less restrictive interventions are determined to be ineffective. A facility that uses mechanical restraints must include mechanical restraints in its restrictive procedures plan. The emergency use of mechanical restraints must meet the conditions of items A to J:

A. an immediate intervention is necessary to protect the resident or others from physical harm;

B. the mechanical restraint used is the least intrusive intervention that will effectively react to the emergency;

C. the use of mechanical restraint must end when the threat of harm ends;

D. the resident must be constantly and directly observed by staff during the use of mechanical restraint;

E. the use of mechanical restraint must be supervised by the program director or the program director's designee;

F. mechanical restraint may be used only as permitted in the resident's treatment plan;

G. as soon as it may safely be done, but no later than 60 minutes after initiating the use of a mechanical restraint, staff must contact the facility's program director or the program director's designee to inform the program director about the use of a mechanical restraint and to ask for permission to use the mechanical restraint;

H. before staff uses a mechanical restraint with a resident, staff must complete training in the use of the types of mechanical restraints used at the facility;

I. when the need for the use of mechanical restraint ends, the resident must be assessed to determine if the resident can safely be returned to the ongoing activities at the facility; and

J. the staff person who used mechanical restraint must document its use immediately after the incident concludes. The documentation must include at least the following information:

(1) a detailed description of the incident or situation which led to the use of the mechanical restraint;

(2) an explanation of why the mechanical restraint chosen was needed to prevent an immediate threat to the physical safety of the resident or others;

(3) why less restrictive measures failed or were found to be inappropriate;

(4) the time when the use of mechanical restraint began and the time when the resident was released from the mechanical restraint;

(5) in at least 15-minute intervals during the use of mechanical restraints, documentation of the observed behavior change and physical status of the resident that resulted from the use of mechanical restraint; and

(6) the names of all the persons involved in the use of mechanical restraint and the names of all witnesses to the use of mechanical restraint.

Subp. 8. [Repealed, 49 SR 499]

Subp. 9. **Training for staff using physical holding or seclusion.** In addition to the training in subpart 2, item C, staff who use physical holding or seclusion must have the following training before using physical holding or seclusion with a resident:

- A. documentation standards for physical holding and seclusion;
- B. thresholds for employing physical holding or seclusion;
- C. the physiological and psychological impact of physical holding and seclusion;
- D. how to monitor and respond to the resident's physical signs of distress;
- E. symptoms and interventions for positional asphyxia; and

F. time limits and procedures for obtaining approval of the use of physical holding and seclusion.

Training must be updated at least once every two years.

Subp. 9a. **Training for safety-based separation.** Before a staff member may participate in safety-based separation, the staff member must complete training according to part 2960.0720, subpart 9. The training must be documented according to part 2960.0100, subpart 5.

Subp. 10. **Administrative review.** The license holder must complete an administrative review of the use of a restrictive procedure within three working days after the use of the restrictive procedure. The administrative review must be conducted by someone other than the person who decided to impose the restrictive procedure, or that person's immediate supervisor. The resident or the resident's representative must have an opportunity to present evidence and argument to the reviewer about why the procedure was unwarranted. The record of the administrative review of the use of a restrictive procedure must state whether:

- A. the required documentation was recorded;
- B. the restrictive procedure was used in accordance with the treatment plan;
- C. the rule standards governing the use of restrictive procedures were met; and
- D. the staff who implemented the restrictive procedure were properly trained.

Subp. 11. **Review of patterns of use of restrictive procedures.** At least quarterly, the license holder must review the patterns of the use of restrictive procedures. The review must be done by the license holder or the facility's advisory committee. The review must consider:

- A. any patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a procedure, individuals involved, or other factors associated with the use of restrictive procedures;
- B. any injuries resulting from the use of restrictive procedures;
- C. actions needed to correct deficiencies in the program's implementation of restrictive procedures;
- D. an assessment of opportunities missed to avoid the use of restrictive procedures; and
- E. proposed actions to be taken to minimize the use of physical holding and seclusion.

Statutory Authority: *MS s 241.021; 245A.03; 245A.09; L 1995 c 226 art 3 s 60; L 2023 c 52 art 11 s 34*

History: *28 SR 211; 49 SR 499*

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