

9525.2750 STANDARDS FOR CONTROLLED PROCEDURES.

Subpart 1. **Standards and conditions.** Except in an emergency governed by part 9525.2770, use of a controlled procedure may occur only when the controlled procedure is based upon need identified in the individual service plan and is proposed, approved, and implemented as part of an individual program plan. Use of a controlled procedure within an individual program plan must comply with items A to I.

A. The controlled procedure is proposed or implemented only as a part of the total methodology specified in the person's individual program plan. The individual program plan has as its primary focus the development of adaptive behaviors. The controlled procedure approved represents the lowest level of intrusiveness required to influence the target behavior and is not excessively intrusive in relation to the behavior being addressed.

B. The proposed use of a controlled procedure is supported by documentation describing how intervention procedures incorporating positive approaches and less intrusive procedures have been tried, how long they were tried in each instance, and possible reasons why they were unsuccessful in controlling the behavior of concern.

C. The case manager obtains informed consent for implementing the procedure as specified in part 9525.2780 before the procedure is implemented, except when faradic shock is ordered by a court under part 9525.2730, subpart 3.

D. The proposed use of the procedure is reviewed and approved by the expanded interdisciplinary team as required by subpart 1a.

E. If the license holder is licensed under parts 9525.0215 to 9525.0355; 9525.1500 to 9525.1690; or 9525.2000 to 9525.2140, the proposed use of the procedure is reviewed and approved by an internal review committee that meets the requirements in subpart 2.

F. The procedure is implemented and monitored by staff members trained to implement the procedure. The license holder is responsible for providing ongoing training to all staff members responsible for implementing, supervising, and monitoring controlled procedures, to ensure that all staff responsible for implementing the program are competent to implement the procedures. The license holder must provide members of the expanded interdisciplinary team with documentation that staff are competent to implement the procedures. Controlled procedures must not be implemented as part of the individual program plan until staff who are involved in providing supervision or training of the person have been trained to implement all programs contained in the individual program plan.

G. Time out procedures must meet the following conditions:

(1) When possible, time out procedures must be implemented in the person's own room or other area commonly used as living space rather than in a room used solely for time out.

(2) When possible, the person must be returned to the activity from which the person was removed when the time out procedure is completed.

(3) Persons in time out must be continuously monitored by staff.

(4) Release from time out is contingent on the person's stopping or bringing under control the behavior that precipitated the time out and must occur as soon as the behavior that precipitated the time out abates or stops. If the precipitating behavior has not abated or stopped, staff members must attempt to return the person to an ongoing activity at least every 30 minutes.

(5) If time out is implemented contingent on repeated instances of the target behavior for longer than 30 consecutive minutes, the person must be offered access to a bathroom and drinking water.

(6) Placement of a person in room time out must not exceed 60 consecutive minutes from the initiation of the procedure.

(7) Time out rooms must:

(a) provide a safe environment for the person;

(b) have an observation window or other device to permit continuous visual monitoring of the person;

(c) measure at least 36 square feet and be large enough to allow the person to stand, to stretch the person's arms, and to lie down; and

(d) be well lighted, well ventilated, and clean.

H. Controlled procedures using manual restraint must meet the following conditions:

(1) The person's primary care physician must be consulted to determine whether implementing the procedure is medically contraindicated.

(2) The person must be given an opportunity for release from the manual restraint and for motion and exercise of the restricted body parts for at least ten minutes out of every 60 minutes.

(3) Efforts to lessen or discontinue the manual restraint must be made at least every 15 minutes, unless contraindicated. The time each effort was made and the person's response to the effort must be noted in the person's permanent record.

(4) The procedures must comply with other standards in parts 9525.2700 to 9525.2810.

I. Controlled procedures using mechanical restraint must meet the following conditions:

(1) The person's primary care physician must be consulted to determine whether implementing the procedure is medically contraindicated.

(2) Use of mechanical restraint that results in restriction of two or fewer limbs or that does not restrict the person's movement from one location to another requires the following procedures:

(a) Staff must check on the person every 30 minutes and document that each check was made.

(b) The person must be given an opportunity for release from the mechanical restraint and for motion and exercise of the restricted body parts for at least ten minutes out of every 60 minutes that the mechanical restraints are used.

(c) Efforts to lessen or discontinue the mechanical restraint must be made at least every 15 minutes. The time each effort was made and the person's response to the effort must be noted in the person's permanent record.

(3) Use of mechanical restraint that results in restriction of three or more of a person's limbs or that restricts the person's movement from one location to another must meet the conditions of subitems (1) and (2) and the following additional conditions:

(a) Efforts to lessen or discontinue the mechanical restraint must be made at least every 15 minutes. The time each effort was made and the person's response to the effort must be noted in the person's permanent record.

(b) A staff member shall remain with a person during the time the person is in mechanical restraint and shall take the action specified in unit (a).

(4) The procedures must comply with other standards in parts 9525.2700 to 9525.2810.

Subp. 1a. **Review and approval by expanded interdisciplinary team.** When an individual program plan proposes using a controlled procedure, or when a substantial change is proposed, the plan must be reviewed and approved by the expanded interdisciplinary team.

Subp. 2. **Review and approval by internal review committee.** A license holder licensed under parts 9525.0215 to 9525.0355, 9525.1500 to 9525.1690, or 9525.2000 to 9525.2140, must have at least one committee that reviews all individual program plans proposing the use of controlled procedures. The administrator with overall responsibility

for the license holder's policy and program shall appoint the committee. Before approving a plan, the committee shall determine if each plan as submitted meets the requirements of parts 9525.2700 to 9525.2810 and all other applicable requirements governing behavior management established by federal regulations or by order of a court. The internal review committee membership must meet the criteria in items A and B.

A. The internal review committee must include two individuals employed by the license holder as staff members or consultants. One of the two individuals must be a qualified developmental disability professional with at least one year of direct experience in assessing, planning, implementing, and monitoring behavior intervention programs.

B. At least one-third of the committee members must be individuals who have no ownership or controlling interest in the facility and who are not employed by or under contract with the facility in any other capacity besides serving on the committee. This component of the committee membership must include at least one parent or guardian of a person with a developmental disability.

Subp. 2a. **Quarterly reporting.** The license holder must submit data on the use and effectiveness of individual program plans that incorporate the use of controlled procedures identified in subpart 4 to the expanded interdisciplinary team members, the internal review committee, and the regional review committee. The data must be submitted quarterly on forms prescribed by the commissioner. The case manager shall ensure that this information is submitted as required under this subpart.

Subp. 3. [Repealed, 18 SR 1141]

Subp. 4. **Submission of individual program plan to regional review committee.** Within ten calendar days of the date that a controlled procedure in items A to D is approved under subpart 2, or a substantial change is made, the case manager shall ensure the regional review committee receives a copy of the individual program plan sent by the license holder, that proposes the procedure or that portion of the individual program plan that contains the substantial change, regarding implementation of the following controlled procedures:

- A. manual restraint;
- B. mechanical restraint;
- C. use of a time out procedure for 15 minutes or more at one time or for a cumulative total of 30 minutes or more in one day; or
- D. faradic shock.

Statutory Authority: *MS s 245.825*

History: *11 SR 2408; 18 SR 1141; L 2005 c 56 s 2; L 2013 c 59 art 3 s 21*

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