

# Behavioral Support Strategies with Restrictive Measures

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# What the behavioral support rule does?

- ▶ Limits the use of restrictive measures
- ▶ Applies to county boards, ICFs, DCs, supported living, and HCBS providers- all DD service providers
- ▶ Requires strategies to be interwoven into one single plan

# When are Restrictive Measures Included?

- ▶ Restrictive measures are only included when there is a:
  - ▶ direct and serious risk of harm
  - ▶ likelihood of legal sanction

# Risk of Harm

- ▶ Direct and serious risk of physical harm to self or others
  - ▶ Capable of causing physical harm
- And
- ▶ Must be causing physical harm or very likely to begin causing physical harm

# Likelihood of Legal Sanction

- ▶ Eviction
- ▶ Arrest
- ▶ Incarceration

# Prohibited Measures

- ▶ Prone restraint
- ▶ Use of manual or mechanical restraint that has the potential to inhibit or restrict an individual's ability to breathe or that is medically contraindicated
- ▶ Use of manual or mechanical restraint that causes pain or harm to a person
- ▶ Disabling an individual's communication device

# Prohibited Measures

- ▶ Denial of breakfast, lunch, dinner, snacks, or beverages (excluding denial of snacks or beverages for an individual with primary polydipsia or a compulsive eating disorder attributed to a diagnosed condition such as Prader-Willi Syndrome and denial is based on specific medical treatment of the diagnose condition and approved by HRC)
- ▶ Placing an individual in a room with no light
- ▶ Subjecting an individual to damaging or painful sound

# Prohibited Measures

- ▶ Application of electric shock to an individual's body (excluding electroconvulsive therapy prescribed by a physician as a clinical intervention to treat a diagnosed medical condition and administered by a physician or a credentialed advanced practice registered nurse)
- ▶ Subjecting an individual to any humiliating or derogatory treatment
- ▶ Squirting an individual with any substance as an inducement or consequence for behavior
- ▶ Using any restrictive measure for punishment, retaliation, convenience of providers, or as a substitute for specialized services

## Types of Restrictive Measures

### Rights Restrictions:

- Restriction of an individual's rights as enumerated in section 5124.62 of the Revised Code

# Types of Restrictive Measures

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## Manual Restraint

Shall cease immediately once risk of harm has passed

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Includes disabling or holding wheelchair or other mobility device

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Does not include a method that is routinely used during a medical procedure for patients without developmental disabilities

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# Types of Restrictive Measures

## Mechanical Restraint

- Use of a device to control an identified action by restricting an individual's movement or function
- Shall cease immediately once risk of harm has passed
- Does not include:
  - Seatbelt of a type found in an ordinary passenger vehicle or an age-appropriate child safety seat
  - Medically-necessary device (such as wheelchair seatbelt or a gait belt) used for supporting or positioning an individual's body
  - A device that is routinely used during a medical procedure for patients without developmental disabilities

# Time Out

## Types of Restrictive Measures

- ▶ Confining individual in a room or area and preventing the individual from leaving the room or area
- ▶ Shall cease immediately once risk of harm has passed or if the individual engages in self-abuse, becomes incontinent, or shows other signs of illness
- ▶ Time out is limited 30 minutes per incident and one hour in any twenty-four period
- ▶ Does NOT include periods of time when the individual is choosing to take a break for calming and controls when they resume other activities

# Types of Restrictive Measures

## Chemical Restraint

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Medication for the purpose of causing general or non-specific blunt suppression of behavior

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Medications for treating sexual offending behavior

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Can be utilized when risk of harm or precisely-defined pattern of behavior that is very likely to result in risk of harm

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Does not include medication routinely prescribed in conjunction with a medical procedure for patients without developmental disabilities

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# Chemical Restraint Or Not?

- ▶ The rule is **not** intended to interfere with relationship between the doctor and patient, nor to second guess the practice of medicine
- ▶ The relationship between prescriber/physician and patient critical
- ▶ No more consideration of DSM 5 diagnoses

# Chemical Restraint or Not?

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## Medication Reconsideration:

When a medication is initially presumed NOT a chemical restraint but results in blunt suppression, it must be reconsidered

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SSA/QIDP is notified and is responsible to notify the prescriber and team

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Prescriber may adjust the medication

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If the medication is not adjusted, the team is to meet to consider what actions are necessary

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# Framework

- ▶ Persons with DD are supported in a caring & responsive manner that promotes dignity, respect, & trust with recognition they are equal citizens & with the same rights & personal freedoms granted to Ohioans without DD
- ▶ Restrictive measures are used only when necessary to keep people safe
- ▶ Restrictive measures are temporary in nature

# Framework

- ▶ Effort in enhancing a person's quality of life by understanding and respecting the person's needs and expanding opportunities for the person to communicate and exercise choice and control.

# Framework

Services and supports are based on an understanding of the individual and the reason for his/her actions

- ▶ Positive measures need to be identified and implemented
- ▶ Finding alternative ways for communicating needs and to have needs met
- ▶ Adjusting physical or social environment
- ▶ Addressing sensory stimuli
- ▶ Adjusting schedules
- ▶ Establishing trusting relationships

# Trauma-Informed Care Perspective

- ▶ Restrictive measures must be designed in a manner that promotes healing, recovery, and resilience
- ▶ The whole person must be considered when developing restrictions. Strategies must be developed in accordance with person-centered planning and trauma-informed care
- ▶ Teams need to consider the “why” of “behavior” and continue this work to best serve the person

# Process for Restrictive Measures

- Assessment within the past 12 months that identifies risk of harm completed by person who meets the requirements
- Strategies developed by person who meets the requirements
- Informed consent
- HRC approval
- RMN Notification
- Staff Training
- Implementation
- Team reviews every 90 days

# Who can conduct Assessments and Restrictive Measures?

- ▶ Holder of a professional license
  - ▶ The Ohio State Board of Psychology
  - ▶ The State Medical Board of Ohio
  - ▶ The Ohio Counselor, Social Worker, and Marriage and Family Therapist Board

# Who can conduct Assessments and Restrictive Measures?

- ▶ Hold a bachelor's or graduate-level degree from an accredited college or university
  - ▶ Have at least three years of paid, full-time (or equivalent part-time) experience in developing and/or implementing behavior support and or risk reduction strategies or plans

# Assessment

- ▶ The plan must be developed based upon assessed need and completed within the last 12 months
- ▶ The risk or likelihood of legal sanction needs to be clearly described
- ▶ A person's precisely-defined pattern of behavior that is very likely to result in risk of harm should be detailed when considering chemical restraint

# Assessment

- ▶ The assessment needs to describe when the behavior is likely to occur
- ▶ Factors that may be contributing to the behavior should be explored and included in the plan
- ▶ Evidence that positive and less restrictive measures have been tried and have been ineffective
- ▶ Data driven descriptors of behaviors to be decreased or increased

# Planning

- ▶ Prior to the implementation of restrictive measures
  - ▶ Development of person-centered plan
  - ▶ One plan or OhioISP
    - ▶ **NO** separate BSPs or BSP inserted into the plan
  - ▶ Ensure least restrictive option

# Planning

- ▶ Specification of steps that will ensure safety of the person and others
- ▶ Identify needed services and supports to assist the individual in meeting court-ordered community controls such as mandated sex offender registration, drug-testing, or participation in mental health treatment
- ▶ Outline necessary coordination with other entities (e.g., courts, prisons, hospitals, and law enforcement) charged with the individual's care, confinement, or reentry to the community.

# Team Process

- Considering restrictive measures is a last resort as well as a tough decision for all team members including the person.
- The person has a *right to refuse* the medication, treatment, or behavioral intervention
- In the event of a refusal of the proposed intervention, the facility must present alternatives
- Alternatives should focus on finding options that are important to the person and promote resilience.

# Guardian Imposed Restrictions

- ▶ Nothing prevents a guardian from making requests.
- ▶ SSA or QIDP need to be encouraged to let the guardians know when requests do not fall in line with the rule and they cannot accommodate
  - ▶ Requests should be taken to the team to determine if risk of harm or likelihood of legal sanction is met
- ▶ A point person, such as the Supervisor or Administrator, should have discussions with guardian to discuss what is allowed/not allowed per rule and the rationale

# Doctor's Orders/Recommendations

- ▶ Doctor's orders for restrictive measures:
  - ▶ A doctor is a very important member of the team who makes recommendations.
  - ▶ Keep in mind the scope of what doctor's provide and day-to-day choices people make
  - ▶ If a decision is made by one person on the team, it is not person-centered
  - ▶ Risk of harm or likelihood of legal sanction would still need to be met

# Human Rights Committee

- ▶ Human Rights Committee and Specially Constituted Review Committee serve the same purpose
- ▶ Must be balanced
- ▶ Confidential
- ▶ Members have initial and annual training requirements
- ▶ HRC can approve RM's for up to 12 months or less time

# New changes for HRC

- ▶ Emergency Request -
  - ▶ informed consent is required,
  - ▶ lesser amount of information is necessary
  - ▶ Quorum for approval
- ▶ Routine Request
  - ▶ Guardian or person has right to present information
    - ▶ Notice to guardian 72 hours prior to meeting
  - ▶ HRC determination shared with guardian/person
  - ▶ Guardian/person has 14 days to share additional information with the QIDP/SSA when the restrictive measure is rejected
  - ▶ HRC has 14 days to respond to guardian/person

# 90-day team review

- ▶ Doesn't have to be in-person
  - ▶ Email, phone conference, go-to meeting, etc.
- ▶ Current documentation review to determine effectiveness
- ▶ Consider numeric data changes in severity or frequency of behavior
- ▶ Should strategies be continued, discontinued, or revised based on up-to-date information

# 90-day team review

- ▶ Consider individual's self-report of overall satisfaction in achieving desired outcomes and pursuing interests
- ▶ Observations by staff and/or natural supports related to safety or wellbeing and person's achievement of desired outcomes and pursuit of interests
- ▶ For manual restraints, review shall include perspective of at least one DSP involved in the restraint during last 90 days
  - ▶ Reason the manual restraint occurred
  - ▶ What could be done differently to avoid restraint

# Annual Analysis

- ▶ Data pulled from the RMN System presented to HRC by March 15, for the previous year
- ▶ Data must include:
  - ▶ Nature and frequency of risk of harm or likelihood of legal sanction that triggered restrictions
  - ▶ Number and type of restrictions reviewed, approved, rejected and reauthorized
  - ▶ Number and type of restrictions implemented
  - ▶ Number of restrictions that have been discontinued including why
  - ▶ In-depth review or analysis of either
    - ▶ Trends and patterns review to see what can be done to enhance risk reduction efforts and outcomes and identify technical assistance & training needs
    - ▶ Sample of implemented restrictions to ensure adherence to the process

# ICF Only Information

# Behavioral Support Rule & ODH tags

- ▶ W159 W261 W262 W263 W264 W266 W289
- ▶ Use of positive techniques, teaching strategies and supports.
- ▶ Restrictive techniques only when warranted by severity of behaviors
- ▶ Reinforcement of positive behaviors
- ▶ Behavior Support in IP
- ▶ QIDP outlines who can conduct assessments and develop

# Behavioral Support Rule & ODH tags

- ▶ W237 W263 W282
- ▶ Hierarchy of interventions- Positive non-aversive strategies first
- ▶ Need to document- measurable data, accurate data, causation, time involved, separation of cluster behaviors from one-time events and staff involved
- ▶ Informed consent- written unless emergency
- ▶ Prohibitive measures

# Psychotropic Medications

- ▶ Psychotropic Medications for diagnoses require monitoring for certification
  - ▶ The requirement lives outside DODD rules
- ▶ The CFA is captured in the OhioISP

# DODD & ODH Partnership

- DODD is partnering with the Ohio Department of Health to improve consistency between state licensing standards and federal Medicaid regulations
- If a potential inconsistency is identified, share information with DODD Central Office

There are  
**NO** blanket  
answers!

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# Questions

