

9515.3090 BEHAVIOR MANAGEMENT AND PROGRAM SAFETY.

Subpart 1. **Behavior management.** Disciplinary restrictions, emergency seclusion, and protective isolation may be imposed in accordance with this part when necessary to ensure a safe, secure, and orderly environment for the treatment program. For purposes of this part, disciplinary restrictions, emergency seclusion, and protective isolation have the meanings in subparts 2 to 4.

Subp. 2. **Disciplinary restrictions.** "Disciplinary restrictions" means withholding or limiting privileges otherwise available to a person in treatment as a consequence of the person's violating rules of behavior. Examples of disciplinary restrictions would include withholding or limiting such privileges as work, leisure, vocational and recreational activities, or access to parts of the facility. Disciplinary restrictions must:

- A. be in proportion to the rule's importance to the order, safety, and security of the treatment program and to the severity of the violation;
- B. be reasonably related to the nature of the behavior; and
- C. take into consideration the person's past behavior while in the program.

Subp. 3. **Emergency seclusion.** "Emergency seclusion" means an emergency intervention that physically separates the person in treatment from others, including placing the person in a room from which the person is not able or permitted to exit. Emergency seclusion does not include locking a person in the person's sleeping room during normal sleeping hours or limiting a person's access to parts of the facility to which the person would otherwise have access. Emergency seclusion must be:

- A. imposed only when necessary to protect the person being secluded or another person or individual from imminent danger of serious physical harm or to prevent serious property damage;
- B. authorized by the nurse on duty who must immediately contact a physician for an order; and
- C. continued only as long as the person's behavior indicates imminent danger continues.

Staff must monitor the person in emergency seclusion no less than every 15 minutes. A physician must review the situation at least every 24 hours.

Subp. 4. **Protective isolation.** "Protective isolation" means placing a person in treatment in a room from which the person is not able or permitted to exit as a way of defusing or containing dangerous behavior that is uncontrollable by any other means.

The license holder must have written policies on protective isolation that cover the points in items A to C.

A. Protective isolation must not be used for the convenience of staff or as a substitute for programming.

B. Treatment must be available during protective isolation to the extent that the person's behavior and condition make treatment possible; treatment shall include components designed to eliminate or reduce the specified behavior or behaviors that caused the need for protective isolation.

C. Protective isolation must not go beyond 48 continuous hours unless the treatment team recommends continuation to the medical director in a statement that:

- (1) explains why continued protective isolation is necessary;
- (2) contains an objective description of the behavior which poses the danger;
- (3) describes the frequency with which the behavior has occurred in the past;
- (4) analyzes the causes or precipitating condition for the behavior including, where appropriate, an analysis of the needs of the person which may cause the behavior;
- (5) discusses why protective isolation is necessary, including a statement of the facts and data from which it is concluded that less restrictive programming will not be sufficient to prevent harm;
- (6) describes the treatment plan, if any, which will be offered during the period of protective isolation;
- (7) sets forth a plan for reviewing the protective isolation, including the frequency of reviews and the criteria for determining that the risk of harm is no longer sufficient to justify isolation; and
- (8) is placed in the medical records of the person in protective isolation.

Continuing protective isolation is contingent on the medical director's written approval of the recommendation. If the plan for continuing protective isolation is approved, staff must follow the plan required in subitem (7).

Subp. 5. **Request for review of protective isolation.** The license holder must provide to a person in treatment who is placed in protective isolation a procedure which can be used immediately to request a review if the person believes the placement was unwarranted. Protective isolation may be imposed pending the outcome of the review. The review request procedure must include the elements in items A to D.

A. The review must be conducted by a panel of at least three persons, who were not participants in the decision to impose the isolation, and whose professional experience and training qualify them to assess the situation.

B. The review must be conducted and the outcome determined within seven days of being requested, excluding Saturdays, Sundays, and legal holidays, unless the review panel states in writing why a determination cannot be made within seven days and specifies when a determination will be made.

C. The person requesting the review must have the opportunity to present to the review panel evidence and argument to explain why protective isolation is unwarranted. The review panel may reasonably limit the form by which the evidence and argument are presented if necessary to ensure the physical safety of the review participants.

D. A person may request that the chief officer of the facility review a determination of the review panel. The chief officer's decision is final.

Statutory Authority: *MS s 246B.04*

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