

245F.09 PROTECTIVE PROCEDURES.

Subdivision 1. **Use of protective procedures.** (a) A program must incorporate person-centered planning and trauma-informed care into its protective procedure policies. Protective procedures may be used only in cases where a less restrictive alternative will not protect the patient or others from harm and when the patient is in imminent danger of harming self or others. When a program uses a protective procedure, the program must continuously observe the patient until the patient may safely be left for 15-minute intervals. Use of the procedure must end when the patient is no longer in imminent danger of harming self or others.

(b) Protective procedures may not be used:

- (1) for disciplinary purposes;
- (2) to enforce program rules;
- (3) for the convenience of staff;
- (4) as a part of any patient's health monitoring plan; or

(5) for any reason except in response to specific, current behaviors which create an imminent danger of harm to the patient or others.

Subd. 2. **Protective procedures plan.** A license holder must have a written policy and procedure that establishes the protective procedures that program staff must follow when a patient is in imminent danger of harming self or others. The policy must be appropriate to the type of facility and the level of staff training. The protective procedures policy must include:

(1) an approval signed and dated by the program director and medical director prior to implementation. Any changes to the policy must also be approved, signed, and dated by the current program director and the medical director prior to implementation;

(2) which protective procedures the license holder will use to prevent patients from imminent danger of harming self or others;

(3) the emergency conditions under which the protective procedures are permitted to be used, if any;

(4) the patient's health conditions that limit the specific procedures that may be used and alternative means of ensuring safety;

(5) emergency resources the program staff must contact when a patient's behavior cannot be controlled by the procedures established in the policy;

(6) the training that staff must have before using any protective procedure;

(7) documentation of approved therapeutic holds;

(8) the use of law enforcement personnel as described in subdivision 4;

(9) standards governing emergency use of seclusion. Seclusion must be used only when less restrictive measures are ineffective or not feasible. The standards in items (i) to (vii) must be met when seclusion is used with a patient:

(i) seclusion must be employed solely for the purpose of preventing a patient from imminent danger of harming self or others;

(ii) seclusion rooms must be equipped in a manner that prevents patients from self-harm using projections, windows, electrical fixtures, or hard objects, and must allow the patient to be readily observed without being interrupted;

(iii) seclusion must be authorized by the program director, a licensed physician, a registered nurse, or a licensed physician assistant. If one of these individuals is not present in the facility, the program director or a licensed physician, registered nurse, or physician assistant must be contacted and authorization must be obtained within 30 minutes of initiating seclusion, according to written policies;

(iv) patients must not be placed in seclusion for more than 12 hours at any one time;

(v) once the condition of a patient in seclusion has been determined to be safe enough to end continuous observation, a patient in seclusion must be observed at a minimum of every 15 minutes for the duration of seclusion and must always be within hearing range of program staff;

(vi) a process for program staff to use to remove a patient to other resources available to the facility if seclusion does not sufficiently assure patient safety; and

(vii) a seclusion area may be used for other purposes, such as intensive observation, if the room meets normal standards of care for the purpose and if the room is not locked; and

(10) physical holds may only be used when less restrictive measures are not feasible. The standards in items (i) to (iv) must be met when physical holds are used with a patient:

(i) physical holds must be employed solely for preventing a patient from imminent danger of harming self or others;

(ii) physical holds must be authorized by the program director, a licensed physician, a registered nurse, or a physician assistant. If one of these individuals is not present in the facility, the program director or a licensed physician, registered nurse, or physician assistant must be contacted and authorization must be obtained within 30 minutes of initiating a physical hold, according to written policies;

(iii) the patient's health concerns must be considered in deciding whether to use physical holds and which holds are appropriate for the patient; and

(iv) only approved holds may be utilized. Prone holds are not allowed and must not be authorized.

Subd. 3. **Records.** Each use of a protective procedure must be documented in the patient record. The patient record must include:

(1) a description of specific patient behavior precipitating a decision to use a protective procedure, including date, time, and program staff present;

(2) the specific means used to limit the patient's behavior;

(3) the time the protective procedure began, the time the protective procedure ended, and the time of each staff observation of the patient during the procedure;

(4) the names of the program staff authorizing the use of the protective procedure, the time of the authorization, and the program staff directly involved in the protective procedure and the observation process;

(5) a brief description of the purpose for using the protective procedure, including less restrictive interventions used prior to the decision to use the protective procedure and a description of the behavioral

results obtained through the use of the procedure. If a less restrictive intervention was not used, the reasons for not using a less restrictive intervention must be documented;

(6) documentation by the responsible staff person on duty of reassessment of the patient at least every 15 minutes to determine if seclusion or the physical hold can be terminated;

(7) a description of the physical holds used in escorting a patient; and

(8) any injury to the patient that occurred during the use of a protective procedure.

Subd. 4. Use of law enforcement. The program must maintain a central log documenting each incident involving use of law enforcement, including:

(1) the date and time law enforcement arrived at and left the program;

(2) the reason for the use of law enforcement;

(3) if law enforcement used force or a protective procedure and which protective procedure was used; and

(4) whether any injuries occurred.

Subd. 5. Administrative review. (a) The license holder must keep a record of all patient incidents and protective procedures used. An administrative review of each use of protective procedures must be completed within 72 hours by someone other than the person who used the protective procedure. The record of the administrative review of the use of protective procedures must state whether:

(1) the required documentation was recorded for each use of a protective procedure;

(2) the protective procedure was used according to the policy and procedures;

(3) the staff who implemented the protective procedure was properly trained; and

(4) the behavior met the standards for imminent danger of harming self or others.

(b) The license holder must conduct and document a quarterly review of the use of protective procedures with the goal of reducing the use of protective procedures. The review must include:

(1) any patterns or problems indicated by similarities in the time of day, day of the week, duration of the use of a protective procedure, individuals involved, or other factors associated with the use of protective procedures;

(2) any injuries resulting from the use of protective procedures;

(3) whether law enforcement was involved in the use of a protective procedure;

(4) actions needed to correct deficiencies in the program's implementation of protective procedures;

(5) an assessment of opportunities missed to avoid the use of protective procedures; and

(6) proposed actions to be taken to minimize the use of protective procedures.

History: 2015 c 71 art 3 s 9; 2017 c 40 art 1 s 52; 2022 c 58 s 106