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RESTRAINT AND SECLUSION GUIDELINES: RIGHTS OF PEOPLE RECEIVING VOLUNTARY AND INVOLUNTARY BEHAVIORAL INTERVENTIONS IN MENTAL HEALTH PROGRAMS

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All people have certain basic legal rights, including people who have mental illness and people who are in mental health facilities. In some cases, these rights can be restricted by a judge or by your doctor. If you are placed in a mental health facility, this material has information you need to know about restraint and seclusion.

VOLUNTARY BEHAVIORAL INTERVENTIONS

During your stay in a mental health facility, there may be times when you need assistance controlling your behavior. There are two (2) forms of behavioral interventions that can be used when you begin to feel out-of-control or when your behavior is disruptive.

Quiet Time

Staff cannot force you to begin or end quiet time. You can end your quiet time whenever you want to. Quiet time is used only when you feel as if you need a place that is quiet and away from other people in order to either calm down or prevent you from getting angry or upset. You must ask staff if you can go to a safe place and stay there until you feel ready to interact with others again. If staff try to block your exit from the quiet time room or threaten you with restraint or seclusion or other consequences if you leave the quiet time room then this is no longer considered quiet time. Instead, it would be considered seclusion and the staff must follow the rules (explained below) regarding seclusion. If your doctor believes that you should not be alone for long periods of time, some restrictions can be placed on where you can go for quiet time.

Clinical Time Out

When you feel out of control or your behavior is disruptive, staff can ask you to go to a safe place for clinical time out. The difference from quiet time is that the staff asks you to do it. No one can keep you from leaving the clinical time out area if you want to. If anyone blocks your exit from the clinical time out area, then you are being secluded. You do not have to agree to go into clinical time out, and you cannot be physically guided or pushed into it. If you are, then you are being secluded or restrained.

Clinical time out may not be used as a punishment, for the convenience of staff, or as a substitute for treatment. For example, staff cannot ask you to take a clinical time out because there is not enough staff on the unit, or because you choose not to go to classes, or because you choose not to take your medications. Staff can request that you stay in clinical time out for up to 30 minutes. After 30 minutes, the staff has to discuss your behavior with you to determine if you need to continue clinical time out. Remember, you do not have to stay the full 30 minutes, you can leave at any time.

If your behavior is dangerous to yourself or someone else, quiet time and clinical time out may not work, but should be tried before more restrictive interventions are used.

INVOLUNTARY BEHAVIORAL INTERVENTIONS

Seclusion

Seclusion is a place where there are no dangerous objects with which you can hurt yourself. It also has to be a place where you can be watched, and you cannot leave the area until you are no longer dangerous to yourself or others. Your doctor will determine what changes you need to make in your behavior in order to be released, and he or she must tell you exactly what behaviors you must show in order to be released.
Once you are placed in seclusion you must be watched by a staff member who is of your same sex, unless you have a good reason to want someone of the opposite sex. They are required to check on you at least every 15 minutes. If you are given emergency medications and placed in seclusion, you must be watched continuously to receive help if problems occur from the medications. This continuous observation can be done with a video camera.

Restraint

When you are restrained, it means that all or part of your body movement is restricted. In order to restrict the movement of your body, various devices can be used. Examples are: leather restraints on your wrists and ankles can be used to tie you to a chair or bed, a vest that can be used to tie you to a chair or bed, a body net that can be wrapped around you, a geri-chair or chair that has a tray fastened to it, and other devices that are designed to keep you from moving. All of the devices that can be used on you must be safe, and should be made in a way to cut down on physical discomfort.

If you are placed in restraint, a staff member of your same sex must watch you at all times to make sure you are okay and to keep you safe from others. If you have a good reason to want a staff member of the opposite sex to watch you, then you must tell your doctor.

There are some people who may get worse when treated with seclusion or restraint. Many people who have been physically and/or sexually abused fear being locked up or tied down because of bad memories. If you believe that you have good reason not to have seclusion and/or restraint used as a treatment for you, you must tell your doctor. You need to tell your doctor about the experience or issue that makes you believe you should not be treated with seclusion and restraint. You should tell your doctor before a need for seclusion or restraint arises. There may be times when your doctor believes that you must be secluded or restrained, even though you think it will make you worse. When this happens, the doctor has to justify why he or she thinks seclusion or restraint is the only way to keep you and others safe and must write the reason in your medical record.

Chemical Restraint

It is prohibited in the State of Texas to use chemicals to restrain you. This means that medications that are given to sedate you rapidly can only be given in the case of an emergency and under the circumstances described in this handout. These medications are usually given by injection and are referred to as emergency medications. If you are secluded or restrained, there should no longer be an emergency, and staff should not use a chemical restraint. If there is ever a situation where the only way to keep you from hurting yourself is to put you in restraint and give you medication, then you have to be watched continually until you are released. In order to do this, the staff may place a video camera near you to monitor your condition. Chemical restraint cannot be given for nonviolent behaviors.

Chemical Sprays

Chemical sprays that are intended for temporary restraint, such as tear gas and pepper spray, cannot be used under any circumstances while you are in the mental health facility; it is illegal.

General Rights for Seclusion, Restraint, and Medication Restraint
Restraint, seclusion, and medication restraint can only be used in an emergency situation or in certain circumstances for medical and dental procedures. An emergency is when there is a possibility of immediate death or serious bodily harm to yourself and/or the possibility of serious physical or emotional harm to others.

Seclusion, restraint, and medication restraint are types of interventions that should only be used as a last resort, and they are only supposed to last long enough to help you regain control of yourself. The staff that works with you is required to use other ways to calm you down if possible before they use seclusion or restraint. Once staff begins to restrain or seclude you, they must use the least amount of physical force that is reasonable and necessary for that situation. In order for you to be placed in seclusion or restraint, a doctor — or a registered nurse, if a doctor is not immediately available — has to initiate the process. Only a doctor can order medication restraint.

Restraint, seclusion, and medication restraint cannot be used as coercion, punishment, retaliation, for convenience of staff or other individuals, or as a substitute for effective treatment or habilitation.

If you are restrained, secluded, or restrained by medication more than two (2) times in any 30-day period, you and your treatment team must have a meeting to review alternative strategies for dealing with behaviors necessitating the use of restraint, seclusion, or medication restraint. If the number of incidents of restraint or seclusion is not reduced, you and your treatment team will consult with the medical director or designee to explore alternative treatment strategies.

While you are in restraint, seclusion, or medication restraint, you have all of the same rights that you have at any other time during your hospitalization. Your right to have your personal property can be restricted by your doctor when you are placed in seclusion or restraint. All personal items that can be used to harm yourself or someone else can be taken away, including your clothing. You should have safe clothing issued to you if yours is taken away. Your property must be put up for safekeeping and returned to you once you are out of seclusion or restraint.

While you are in restraint, seclusion, or medication restraint, you have the right to be treated with dignity and respect. You also have the right to go to the bathroom at least once every two (2) hours, have something to drink once every two (2) hours, take a bath at least once a day, eat all regularly scheduled meals and snacks, and the environment must be comfortable and well ventilated. If you are put in restraint, you have the right to be able to move your limbs or exercise for five (5) minutes out of every hour. The staff member who is watching you during seclusion and restraint is required to check for adequate respiration and circulation, especially if you are in restraint.

Who can order restraint, seclusion, or medication restraint?
Only a doctor can order restraint, seclusion, or medication restraint if a doctor is immediately available. If a doctor is not immediately available, a clinically privileged registered nurse may initiate restraint or seclusion, but not medication restraint. Before a doctor or clinically privileged registered nurse can order restraint, seclusion, or medication restraint, they must view you and your behaviors to determine if the restriction is necessary. A doctor, if not immediately available when restraint or seclusion is first started, must approve the restraint or seclusion in person or by phone within an hour after you have been placed in restraint or seclusion. After that they must evaluate you face-to-face once every 12 hours.

How long can you be restrained or secluded?
The maximum length of time that you can be restrained or secluded is based on your age. If you are an adult, the time cannot exceed four (4) hours. If you are between the ages of nine and 17 years, the time cannot exceed two (2) hours. If you are younger than nine years, the time cannot exceed one (1) hour.

However, if, after this initial period of time, the doctor or registered nurse does not believe that you are ready to be let out of restraint or seclusion, they can continue the restraint or seclusion up to 12 hours. If you are in restraint or seclusion for 12 hours, and it is decided that you are not ready to be let out, a doctor must evaluate you face-to-face. The doctor then has to write a new order in your record and sign it with date and time of the new order clearly stated.

When can you be released from restraint or seclusion?
If you are no longer an imminent danger to yourself or others for 15 minutes, you must be evaluated by the clinically privileged nurse or doctor for release on a 30-minute trial period, even if the maximum length of time prescribed in the order has not expired. If you fall asleep while you are restrained, then you must be released from as many restraints as possible. If you fall asleep in seclusion, the door must be unlocked and opened.

RESTRAINT DURING MEDICAL OR DENTAL PROCEDURES

Seclusion or restraint can also be used for medical or dental care as needed, this includes the use of quarantine when you have a contagious disease. If you need medical care or dental care, and in order to provide that care for you the doctor has to keep you, or a part of your body, from moving, then the doctor can use restraint, but only if using restraint or seclusion is part of the facility's written medical or nursing procedures, and the procedures are recorded in your record. You have the right to be free from any form of restraint that are not medically necessary. Restraint and seclusion cannot be used during a medical or dental treatment as a means of coercion, discipline, convenience, or retaliation by staff.

PROTECTIVE AND SUPPORTIVE DEVICES

General Rights
Protective and supportive devices cannot be used as coercion, punishment, retaliation, for convenience of staff or other individuals, as a substitute for effective treatment or habilitation, or in an emergency. They must be part of your treatment plan, and must be reviewed at each treatment plan review. Remember, you are supposed to be included in the meeting where your treatment plan is reviewed.

Protective Devices
Protective devices may be used to keep you from hurting yourself when other, less restrictive interventions will not work. Protective devices include any device that you cannot remove. Examples of protective devices are helmets for people with seizures, use of bed rails to prevent people from falling out of bed, and seat belts to prevent people from falling out of wheelchairs.

The use of protective devices requires a doctor's order. If you continue to be placed in a protective device after one (1) week, then you and your treatment team must review the continued need for the device. At that meeting you must be informed of what is being done to help you no longer need the protective device.

Supportive Devices
Supportive devices may be used to help you have better support, like for sitting up or standing up, or to help you develop and maintain normal body functioning. An example of a supportive device is a posey vest for an individual who is not able to support themselves when they are sitting up in a chair.

The use of supportive devices requires a doctor's order. Before a supportive device can be used, you and your treatment team must talk over the need for the device. During this meeting there has to be an occupational or physical therapist present, or a registered nurse who is familiar with you and your needs. Your treatment team must document in your treatment plan the purpose for the device, why it needs to be used, and what the team will try to do in the future so the device won't be needed.

IF YOU THINK YOUR RIGHTS HAVE BEEN VIOLATED

If you believe one of your rights has been violated, you should first contact your treatment team at the facility where you are located. Additionally, you have the right to talk to any of the following:

- The Consumer Rights Officer, located at all mental health facilities
- The TDMHMR Office of Consumer Services and Rights Protection at 1-800- 252-8154 or (512) 323-3242
- Disability Rights Texas

If you believe that you have been abused or neglected in the process of being put in seclusion or in restraint you should call the Texas Department of Protective and Regulatory Services at 1-800-647-7418.

For further information, please contact any DRTx office at the address and/or telephone number indicated on our website on the “Contact” page.

Disability Rights Texas’ goal is to make each handout understandable by and useful to the general public. If you have suggestions on how this handout can be improved, please contact DRTx at the address and telephone number shown on the DRTx home page, www.DisabilityRightsTx.org, or send an e-mail to info@drtx.org. Thank you for your assistance. This handout is available in Braille and/or on audio tape upon request. DRTx strives to update its materials on an annual basis, and this handout is based upon the law at the time it was written. The law changes frequently and is subject to various interpretations by different courts. Future changes in the law may make some information in this handout inaccurate. The handout is not intended to and does not replace an attorney's advice or assistance based on your particular situation.