

**Restrictive Measures in the Community:
Wisconsin
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**Discovery,
Monitoring, and
Reduction in Use**



Restrictive Measures in the Community Wisconsin

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Presentation Content

- Background/History
- Purpose, Authority and Individual Rights
- Definition of Restraint
- Application Process
- Training and Implementation

Background/ History

**Purpose of this portion of presentation
is to show how one bureaucracy
dealt with this controversial subject.**

Background/History

Controversy stems from different sources:

- perception of new mandate without funding;
- process restricts/ challenges provider autonomy;
- potential dangerousness implied by use in community; and
- Serving people in the community who may need restraints might cause incidents and make headlines

Background/History

History- State Delay and Indecisiveness:

- Passage of “Patients Rights” Law and Promulgation of Rules;
- Took from 1977---1987 from law to rule
- Major issue 1: to whom/which providers do the rules apply
- Major issue 2: State not involved in grievance process except state institutions

Background/History

MAJOR UPDATE IN RULES GOVERNING RIGHTS

- Opportunity arose in 1994-5 as result of failure of the grievance process- lacked objectivity and responsiveness
- Major change: created a key role for the state in grievance process
- Rule promulgated- major training initiative concentrated on new and improved grievance process and higher level of state involvement.

Background/History

MAJOR UPDATE IN RULES (cont.)

- Issue of restraint use in community settings raised- was a side issue
- very controversial- first reaction to reject
- Acknowledged by group that use of restraints was already occurring but with little oversight

Background/History

RESTRAINT USE IN COMMUNITY SETTINGS

- Failure of state to acknowledge use made misuse invisible- potential for harm greater if ignored
- While probably against the law, law did not stop use. State Quality Assurance staff found when doing random reviews and in other contacts.
- Choice: shine the light and create a process or pretend it was not happening

Background/History

UNEASY COMPROMISE AGREEMENT

- Compromise reached with State Protection and Advocacy Agency- and Department- all units
- Language making restraint use in the community possible added to rule
- **BUT-** the department and, if involved, counties, must perform person by person approval of all proposed uses of restrictive measures.
- Not universally embraced within the department but time to move forward!

Background/History

Creating Restrictive Measures Review process

- 1996 First effort to design review process.
- Early drafts of policy not well received by other program areas (e.g. Mental Health)
- Vacillation between doing it for just Developmental disabilities vs Other areas
- Little progress in obtaining approval for 6 years
- Used the draft when counties were willing.

Background/History

CONSTRUCTIVE ALLIANCE WITH STATE LICENSING AGENCY

- Attributable to their structured hierarchical culture;
- They want a formal, structured process, in writing that can stand up to a court situation
- Three year process developing the process you see today- trial and error and adjusting to both reality and each other.
- Involvement of Client Rights Office very positive

Background/History

CURRENT SITUATION

- Trying to universalize to all target groups- see memo
- Except they have different needs
- Also different staffs indifferent units make a consistent approach difficult.
- Note the guidelines have now existed for 1 year and have worked well
- Planning the 11th anniversary party of the beginning of this process

Purpose

- To reduce the use of restrictive measures with vulnerable individuals.
- When absolutely needed to do so in a carefully planned thoughtful manner with safeguards identified and in place
- State oversight.

Why Seek to Reduce the Use of Restrictive Measures?

- When we assume physical control of another individual:
 - The risk of injury to the individual and care provider increases.
 - It is a restriction or limitation of the individual's rights.

Federal Authority

- The Federal Center for Medicare and Medicaid Services (CMS) mandates in Section 1915(c) of the Social Security Act that the state ensure the health, and safety of all individuals receiving services funded by Medicare and/or Medicaid.

State Authority - Wisconsin

- State Statute 51.61 (1)(l)1.
 - “isolation or restraint may be used only when less restrictive methods are ineffective or not feasible and shall be used for the shortest time possible”.

Authority: Who Does This Apply To?

- Wisconsin Statute 51.61(1) Patient Rights defines “patient” as “any individual receiving services for mental illness, developmental disabilities, alcoholism, or drug dependency”.

Authority

- Other Wisconsin 51.61 Rights
 - (e) have the right to the least restrictive conditions necessary to achieve the purpose of admission, commitment, or placement
 - (i)1 have a right to be free from physical restraint and isolation except for emergency situations or when isolation or restraint is part of a treatment program.

Authority

- HFS 94
 - This is the Wisconsin Administrative Code that describes how the Division of Disability and Elder Services will promote the rights as defined in 51.61
 - Applies to county departments established under s.46.23, 51.42, or 51.437 Stats., and to all treatment facilities and other service providers, whether or not under contract to a county department”

Authority HFS 94

- 94.07 Least Restrictive Treatment and Conditions (1)
“each patient shall be provided the least restrictive treatment and conditions which allow the maximum amount of personal physical freedom”.
- HFS 94.10 Isolation, seclusion, and physical restraints.
 - “Any service provider using isolation, seclusion or physical restraint shall have written policies that meet the requirements specified under s 51.61(1)(i)”

Authority HFS 94

- (1)(i)2., Stats. For a community placement, the use of isolation, seclusion or physical restraint shall be specifically approved by the department on a case-by-case basis and by the county department if the county department has authorized the community placement. In granting approval, a determination shall be made that use is necessary for continued community placement of the individual and that supports and safeguards necessary for the individual are in place.

Authority HFS 83 and 88

- HFS 83 specific to Community-Based Residential Facilities.
- HFS 88 specific to Adult Family Homes.
- HFS 89 Residential Care Apartment Complex
- HFS 132 Nursing Homes

Authority

- CMS new waiver application states that “the use of personal restraints, drugs used as restraints, mechanical restraints or seclusion is permitted subject to State safeguards concerning their use.”
- Need to specify the State’s responsibility for overseeing the use of restraints or seclusion and ensure that the State’s safeguards concerning the use of restraints is followed.

Definition of Restraint

- Any device, garment or physical hold that
 - Restricts the voluntary movement of a person's body or access to any part of the body
 - And cannot be easily removed by the individual

Exceptional Measures

- Specific forms of restraint that are considered highly restrictive and present a higher level of risk
- Require an additional level of review-Oversight Committee
- Waiving or modifying any process requirement is considered an exceptional measure as well

Types of Restraints

- Manual restraint
- Mechanical restraint
- Isolation
- Protective equipment
- Mechanical support
- Medical restraint

Manual Restraint

- Holding limbs or body contingent upon behavior
- Restricting or preventing movement
- Not longer than 15 continuous minutes
- Examples: baskethold, physical escort

Exceptional Forms of Manual Restraint

- Any form of horizontal restraint
 - Physically forcing a person to lay in a horizontal position
- Takedowns
 - Physically forcing a person to a prone position on the ground, floor, or mat

Mechanical Restraint

- A device applied to any part of a person's body
- Contingent upon behavior
- Restricts or prevents movement or normal use/functioning of the body part
- Cannot be easily removed by the individual

Examples of Mechanical Restraints:

- Hand or arm splints
- Locked helmets
- Bed rails
- Gloves or mitts

Exceptional Forms of Mechanical Restraint

- Restraint vests, jackets, body wraps
- Wrist or ankle restraints
- Restraint chairs
- Bed enclosures

Isolation

- Physical or social separation from others by actions of staff
- Contingent upon behavior
- non-voluntary

Exceptional: Seclusion

- A form of isolation
- Person is physically set apart from others
- Use of locked doors

Protective Equipment

- Device that does not restrict movement but does prevent access
- Applied to any part of a person's body to prevent tissue damage as a result of behavior
- Cannot be easily removed by the individual

Examples of Protective Equipment:

- Adaptive clothing
- Padded mitts
- Goggles/glasses

Mechanical Support

- An apparatus
- Properly aligns a person's body or helps maintain balance

Medical Restraint

- Device applied to any part of person's body
- Restricts free movement or normal use
- Cannot be easily removed by the individual
- Used prior to, during, or subsequent to a medical procedure
- Or to protect during the time a medical condition exists

When a determination is made that a restrictive measure may be necessary:

- Report the information to the county case manager;
- Discuss as a team to determine whether there are alternatives and whether this is the LEAST restrictive approach;
- DOCUMENT- how, when, why, etc.
- Develop application materials if the team concludes that the restrictive measure/restraint is appropriate and necessary AND other, less restrictive approaches have proven unsuccessful

Approval Process

- Behavior intervention plan
- Application form
 - Provider to placing agency to CIS
 - Screened by CIS
- Regional team review
 - Assigned CIS, lead CIS, 3rd member
- Additional level of review for plans containing exceptional measures

Approval Process, Continued

- Approval decision
 - Least restrictive
 - Protection of health, safety, welfare, rights
- Conditions
 - All approvals time limited
 - Data collection
 - Updates
- Letter of approval or denial

When equipment and adaptive devices do not function as restraints...

- Determine that device is safe, least restrictive and most appropriate for the individual by consulting with appropriate professional
- Develop a written plan for use and monitoring of the device and/or equipment

...not a restraint (continued)

- Have everyone trained in application, maintenance and ongoing monitoring of the device/equipment
- Reassess at least annually to determine continued appropriateness and need

Training and Implementation

- **Our Intent is to:**
 - **Encourage compliance with process.**
 - **Discover situations of current use.**
 - **Reduce restrictive measure use.**
 - **Improve skills in supporting individuals with challenging behavior .**

Statewide Conferences and Training

- Series of conferences available to state, county, provider, advocate, guardians, families, and individuals receiving services
- Best practices
- Encourage positive attitudes in supporting challenging individuals
- Example; David Pitonyak, Big Water and Solid Ground

Regional Training

- **Presentation of the State Restrictive Measures Oversight Process**
 - Definition of restrictive measures.
 - Application process.
 - Program expectations when restrictive measures are proposed.

County or Provider Training

- **Group “exercises” with examples of situations.**
 - **Identify restrictive measures and separate from individual rights limitations.**
 - **Discuss least restrictive and best practice approaches.**
 - **Discuss options to fade use.**

Provider Training

- **Writing effective Behavior Support Plans**
- **Best practices**

Relationship of Individual Rights and Restrictive Measures



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