DBHDS
Office of Human Rights

Behavioral Treatment Plans

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The revised regulations apply to state operated facilities as well as licensed community providers and this shift toward external review of basic clinical practice and program operations may seem over extended regarding state operated mental health facilities. To this end, the following guidance should be used as a measuring stick to help subject matter experts and clinicians in state operated facilities in making their determinations.

Behavioral Treatment Plans (also at times referred to as Behavior Support Plans, Behavior Plans or Functional Plans), should only be identified as such if there has been a functional analysis of the individual's behavior, treatment is implemented per the plan, and data is being collected to monitor effectiveness of the plan [see citation 12VAC35-115-30 below].

If a hospital identifies and initiates a Behavioral Treatment Plan, it must have the Plan reviewed and approved by an Independent Review Committee. * If the Behavioral Treatment Plan involves the use of restraint or timeout, it also needs to be reviewed by the LHRC prior to implementation [see citation 12VAC35-115-105.E and G below].

The Independent Review Committee is approving the clinical efficacy of the provider's Behavioral Treatment Plan and associated data collection procedures. The Independent Review Committee only needs to consist of 3 individuals familiar with behavioral analysis. This can be internal to the facility or a state-wide committee can be developed. Oversight of the Independent Review Committee is not the responsibility of the Office of Human Rights.

The LHRC is reviewing Behavioral Treatment Plans (that include restraint and time out only) to determine that 1) the Plan has been approved by an Independent Review Committee, 2) a licensed professional has conducted an assessment 3) the lack or probable lack of success with less restrictive procedures is documented in the individuals services record and 4) the provider has determined and documented that the risk of not treating the behavior is greater than those associated with the restriction.

**The Office of Human Rights is in the process of proposing amendments to the Regulations clarifying that only Behavioral Treatment Plans with restraint or time out will need the approval of an Independent Review Committee; however, until the Regulations are changed, Behavioral Treatment Plans must follow the review process as outlined [see citation 12VAC35-115-105 below]*.

A Behavioral Treatment Plan is based on a functional analysis of behavior, regardless of the type of intervention used. Examples of interventions that could be part of an over-arching clinical treatment plan or Individualized Services Plan, but would not be considered a "Behavioral Treatment Plan" are as follows:

For an individual with dementia:

1. To help motivate Mr. Doe to take his medications, he will be offered a cup of caffeinated coffee after he takes his morning medications. The coffee is in the med cabinet.
2. Staff may remind him that he can have his coffee after he takes his medications.

3. Remind him of unit rules and routines
4. Redirect him to his bedroom when he becomes loud or threatening
5. Allow him space and time after giving a direction

For an individual who has an eating disorder and self-induces vomiting:

1. If Mr. Doe refrains from self-injury (including vomiting) for 1 week, he may go to the music room with rehab staff.

For an individual who frequently exhibits threatening, aggressive, and uncooperative behavior on the treatment mall. He will gradually be reintegrated into the Mall based on his ability to tolerate group assignments. Group treatment will continue focusing on improving frustration tolerance through building adaptive coping skills, social skills, and problem solving skills so that he may refrain from aggressive and threatening behaviors. He will be assigned to groups that focus on the above noted growth areas while fitting his cognitive abilities and degree of engagement.

1. At present, Mr. Doe spends the morning attending Mall groups. If he maintains safe and appropriate behavior, he may earn the privilege to have lunch in the cafeteria and attend preferred groups on the PSR Mall.
2. Mr. Doe may earn additional free time according his level if he maintains safe and appropriate behavior during PSR Mall.

Examples of interventions that would be considered a "Behavioral Treatment Plan" are as follows:

For an individual with intellectual difficulties and severe mental illness that predisposes him to behave aggressively without being able to communicate reasons for his aggression. A behavioral assessment has determined that Mr. Doe is more likely to behave aggressively when overstimulated by the presence of other patients. Charting of his behavior has determined that aggressive behavior occurs most frequently during the hours of 5:30-9:30 am and 2:30-8:00pm, when there is a lot of activity on the unit. The team hopes to help Mr. Doe become better able to communicate why he feels frustrated, and ultimately predict and/or understand the antecedents and purposes of his aggressive behaviors.

1. Due to his frequent tendency to charge at others aggressively, nursing staff will ensure that whenever other patients are on the unit, 2 staff will sit near the red-line on his hallway and serve as dedicated staff. Their primary role is listen to Mr. Doe if he wishes to converse, redirect him back to his room should he attempt to leave the hallway (unless he is going on approved supervised outings with staff), and, if he becomes aggressive, to assist other staff with maintaining safety for him and other patients. Dedicated staff are expected to only converse with others for brief periods, and only for the purpose of maintaining safety.
2. During morning hours when many patients are about (5:30am - 9:30am): Mr. Doe must remain in his bedroom hallway where he will have access to his bedroom, the shower, the small day room, and the hallway with staff supervision. He may not cross the red line on the floor at the end of the hallway without permission and supervision from staff.
3. Between 9:30 am and 2:30 pm: Mr. Doe may leave his side of the hallway and go to other areas of the unit (NOT other patient bedroom areas) with staff supervision.
4. During afternoon/early evening hours when many patients are about (2:30pm - 8:00pm): Mr. Doe must remain in his bedroom hallway where he will have access to his bedroom, the shower, the small day room, and the hallway with staff supervision. He may not cross the red line on the floor at the end of the hallway without permission and supervision from staff.
5. After 8pm until bedtime: Mr. Doe may leave his side of the hallway and go to other areas of the unit (NOT other patient bedroom areas) with staff supervision.

6. Staff will monitor the frequency of aggressive behaviors and modify the plan, reducing or increasing restriction as necessary.

Emergency Restrictions may be implemented immediately with an appropriate order. The requirements are that: 1) the patient needs to be made aware of the restriction, 2) the patient needs to be informed of discontinuation criteria, and 3) the Facility Advocate needs to be informed. The restriction will only need to be reviewed by the LHRC if the restriction exceeds 7 days or occurs 3 or more times during a 30 day time period (see citation 12VAC35-115-270.A.1, below)

Corresponding citations from Human Rights Regulations:

12VAC35-115-30. Definitions

Behavioral treatment plan," "functional plan," or "behavioral support plan" means any set of documented procedures that are an integral part of the individualized services plan and are developed on the basis of a systematic data collection, such as a functional assessment, for the purpose of assisting an individual to achieve the following:

1. Improved behavioral functioning and effectiveness;
2. Alleviation of symptoms of psychopathology; or
3. Reduction of challenging behaviors

"Independent review committee" means a committee appointed or accessed by a provider to review and approve the clinical efficacy of the provider's behavioral treatment plans and associated data collection procedures. An independent review committee shall be composed of professionals with training and experience in applied behavioral analysis who are not involved in the development of the plan or directly providing services to the individual.

12VAC35-115-105. Behavioral Treatment Plans.

A. A behavioral treatment plan is used to assist an individual to improve participation in normal activities and conditions of everyday living, reduce challenging behaviors, alleviate symptoms of psychopathology, and maintain a safe and orderly environment.

B. Providers may use individualized restrictions such as restraint or time out in a behavioral treatment plan to address challenging behaviors that present an immediate danger to the individual or others, but only after a licensed professional has conducted a detailed and systematic assessment of the behavior and the situations in which the behavior occurs. Providers shall document in the individual's services record that the lack of success or probable success of less restrictive procedures attempted or considered, and the risks associated with not treating the behavior, are greater than any risks associated with the use of the proposed restrictions.

C. Providers shall develop any behavioral treatment plan according to their policies and procedures, which shall ensure that:

1. Behavioral treatment plans are initiated, developed, carried out, and monitored by professionals who are qualified by expertise, training, education, or credentials to do so;
2. Behavioral treatment plans include nonrestrictive procedures and environmental modifications that address the targeted behavior; and
3. Behavioral treatment plans are submitted to an independent review committee, prior to implementation, for review and approval of the technical adequacy of the plan and data collection procedures.

E. Providers other than intermediate care facilities for individuals with intellectual disabilities shall submit any behavioral treatment plan that involves the use of restraint or time out, and its independent review committee approval, to the LHRC, which shall determine whether the plan is in accordance with this chapter prior to implementation.

F. If either the LHRC or SCC finds that the behavioral treatment plan violates the rights of the individual or is not being implemented in accordance with this chapter, the LHRC or SCC shall notify the director and provide recommendations regarding the proposed plan.

G. Behavioral treatment plans involving the use of restraint or time out shall be reviewed quarterly by the independent review committee and the LHRC or SCC to determine if the use of restraint has resulted in improvements in functioning of the individual.

H. Providers shall not use seclusion in a behavioral treatment plan.

12VAC35-115-270. State Human Rights Committee and Local Human Rights Committees Responsibilities.

A. Local human rights committees shall:

1. Review any restriction on the rights of any individual imposed pursuant to 12VAC35-115-50 or 12VAC35-115-100 that lasts longer than seven days or is imposed three or more times during a 30-day period for providers within the LHRC's jurisdiction in accordance with 12VAC35-115-100 B 5;

4. Review behavioral treatment plans in accordance with 12VAC35-115-105; When a provider investigates peer to peer acts of aggression and/or conflicts, they are looking to determine whether or not staff provided adequate supervision, followed internal policies and procedures and/or acted to prevent the individual from being harmed while in the program. If the program determines, through their internal investigation, that the staff was neglectful and such acts or omissions resulted in the individual being rendered harm, then the program should take corrective actions in accordance with their human rights policies and procedures.