

Department of Health Long Term Services Division Policy	Policy Number:
	Supersedes: Policy Governing Behavior Support Service Planning, 1/19/96 and LTSD Behavior Support Policy Revision 6/23/00
Policy Title: Aversive Intervention Prohibitions	
Effective Date: May 15, 2003	
Approved: Signature on File	Date:

I. PURPOSE

The intent of this policy is to ensure the right of individuals to be protected from aversive interventions in order to alter behavior.

II. APPLICABILITY

This policy applies to all individuals with developmental disabilities in services funded through any of the following programs:

1. Developmental Disabilities Waiver
2. LTSD State General Fund Programs
3. Intermediate Care Facilities for the Mentally Retarded with members of the Jackson Class Action Lawsuit.

III. DEFINITIONS

AVERSIVE INTERVENTION: Any device or intervention, consequence or procedure intended to cause pain or unpleasant sensations. Examples are not limited to but include: electric shock, isolation, mechanical restraint, forced exercise; withholding of food, water or sleep, humiliation, and water mist; over-correction, and other cost responses.

CHEMICAL RESTRAINT: The use of chemical substances including psychotropic medications, as punishment as a substitute for a habilitation or in quantities that interfere with services or habilitation, or for the convenience of staff, or for unnecessarily restricting an individual's freedom of movement, other than in an emergency where there is a substantial and imminent risk of serious physical harm to the individual or others.

CRISIS PLAN: When an individual's behavior has escalated to severity levels posing great risk of harm to the individual or others a Crisis Prevention/Intervention Plan may be necessary, as determined by the Interdisciplinary Team. Any use of physical intervention must only be recommended with a Crisis Plan and may never appear as a

recommendation within a Behavior Support Plan. See also LTSD *Policy on Crisis Prevention/Intervention Plans.*

EMERGENCY: A circumstance in which the health or safety of the individual client or other person is in imminent risk of harm and immediate action is necessary to prevent the harm.

FORCED EXERCISE: The use of physical force to require a person to engage in strenuous physical activity.

LEGALLY LICENSED PRESCRIBER: An individual who is legally licensed to prescribe medications; this includes both physician and non-physician health care professionals authorized to prescribe medication.

MECHANICAL RESTRAINTS: Any apparatus restricting an individual's movement excluding mechanical supports designed by a physical therapist and approved by a physician or designed by an occupational therapist that is used to achieve proper a body position and excluding protective devices. Examples of mechanical restraints include Posey vests, shackles, straight jackets, belts, or two-point restraints.

MEDICAL RESTRAINT: Any apparatus prescribed by a physician, dentist, or medical practitioner acting within the scope of his/her license, as a health related means of protection that restricts an individual's movement during a specific medical, dental, or surgical procedure.

OVER-CORRECTION: A procedure which provides for restoration of the environment to better than original condition following an incident of inappropriate behavior, e.g., requiring an individual to clean all the tables in the dining room after spilling milk on one table.

PHYSICAL RESTRAINT: The use of manual methods, other than physical guidance and prompting techniques of brief duration, to restrict the movement or normal functioning of a portion of an individual's body.

SECLUSION: Placing a person in a locked or barricaded area that prevents contact with others or from which egress is restricted, usually for a specified period of time.

IV. POLICY STATEMENT

Interventions used to alter individual behavior(s) that exhibit any or all of the following characteristics are considered excessively aversive and are prohibited:

- Interventions causing or resulting in physical pain
- Interventions which cause or may potentially cause tissue damage, physical illness or injury, or require the involvement of medical personnel, other than

medications prescribed by a legally licensed prescriber for the purpose of treating a physical or mental illness.

- The use of police presence and emergency rooms as a principal strategy of behavioral support. However, this does not exclude the use of emergency services as appropriate to enforce laws or provide needed emergency medical treatment. This policy does not prevent a Crisis Plan from including provisions for accessing emergency medical or law enforcement interventions as a last resort, or as required by law. The use of law enforcement personnel within the context of a Crisis Plan must be limited only to situations involving imminent risk of harm to self or others that cannot be otherwise be contained.
- Interventions considered ethically unacceptable for application to people who are not disabled. Examples of such interventions which are prohibited include, but are not limited to:
 1. Contingent electrical aversion procedures
 2. Seclusion
 3. Excessive use of medical restraint except as described within this policy
 4. Use of mechanical restraint except as described within this policy
 5. Use of chemical restraint except as described within this policy
 6. Use of physical restraint except in an emergency as described below
 7. Forced exercise
 8. Withholding food, water or sleep
 9. Public or private humiliation
 10. Application of water mist
 11. Application of noxious taste, smell or skin agents

A. USE OF PHYSICAL RESTRAINTS

Physical restraint will not be used as a habitative treatment or behavioral support option but may briefly be employed as a last resort in crisis situations. The use of physical restraint is limited to situations where the individual or others are in imminent danger of injury or the risk of significant property destruction exists. The use of physical restraint must be reviewed by the individual's Interdisciplinary Team and by the provider agency's Human Rights Committee, if applicable.

The minimum criteria for Human Rights Committee approval of the use of physical restraint are as follows:

1. The use of physical restraint must be described in a Crisis Intervention Plan and should not be presented as a component of a Behavior Support Plan.
2. A hierarchy of prevention and early intervention strategies preceding physical restraint.
3. The use of physical restraint is related solely to an immediate and urgent situation and provides the least restrictive option to keep the individual and

other's safe from imminent harm or to prevent significant property destruction.

4. Demonstrated competency by the appropriate staff in both nonphysical and physical interventions. Competency may be established through successful participation in a crisis response training protocol approved by the LTSD Office of Behavioral Services. The Behavior Support Plan has a provision for ongoing staff training for implementing the plan. The responsible trainer will be certified or authorized in a recognized crisis intervention protocol.
5. The physical restraint may not be approved with the intention to humiliate an individual or assert the authority of those implementing the restraint.

Community providers must develop policies if it uses physical restraints, which are subject to review and approval (upon request) by the LTSD Office of Behavioral Services. Agency policy must include the following:

1. Definitions and descriptions of the conditions under which physical restraint procedures may be used, including risk of imminent harm and property destruction.
2. Identification of techniques approved for agency use and emergency protocols, including urgent response and back up staffing procedures as needed.
3. Documentation of the use of physical restraints, including internal incident reports and when applicable, DOH Community Agency Incident Report (CAIR) forms
 1. Immediate notification of the supervising employee on duty or designated on call staff member.
 2. Notification within 24 hours to the behavior therapist, the agency professional responsible for coordinating and monitoring the Behavior Support Plan, the individual's case manager and guardian, as appropriate.
 3. Prohibition of mechanical restraints in emergency situations unless applied by police or emergency medical personnel.
 4. Review by the Interdisciplinary Team and Human Rights Committee at the next scheduled meeting, if not sooner, of the circumstances and use of physical restraint.
 5. Convening of the individual's Interdisciplinary Team to develop a strategy, including a specific Crisis Plan, to address the occurrence of the behavior that resulted in the use of prescribed or non-prescribed physical restraint procedures.

B. USE OF MEDICAL RESTRAINT DEVICES

The routine use of restraint devices during medical or dental procedures is unacceptable. The use of restraint devices for medical or dental care must meet the following criteria:

1. Be prescribed by a licensed healthcare professional, usually a physician or dentist, as necessary during the conduct of a specific medical or dental procedure, or necessary to protect the individual from physical harm during the time that a medical or dental condition exists and for which treatment is being provided.
2. Be explained to the individual, guardian, and/or family member in an understandable way, in advance of use, to promote understanding and desensitization to the procedure. The Interdisciplinary Team will determine who is best suited to provide the explanation.
3. A methodology to increase acceptance and understanding of the procedures necessitating medical restraint will be included in the Individual Service Plan or Behavior Support Plan when those procedures are expected to occur more than twice per year.
4. Emergency use of medical restraint devices will follow the same reporting procedures as for emergency use of physical restraint.

C. USE OF MECHANICAL RESTRAINT DEVICES

Any form of mechanical restraint, including the use of straps, blankets, rugs, and locked seclusion in any setting not licensed as a hospital, or applied by police or emergency medical personnel, is prohibited.

D. USE OF MEDICATIONS AS CHEMICAL RESTRAINT

The use of medications for the purpose of behavioral restraint, intervention or for substitution of meaningful support services and in the absence of a comprehensive treatment plan is prohibited.

Medications commonly prescribed or administered to individuals without developmental disabilities are not included in this policy when prescribed for a medical or dental condition or treatment, e.g., anesthesia, antibiotics, etc.

E. USE OF PROTECTIVE DEVICES

Protective devices must be recommended by the Interdisciplinary Team and must be approved by the Human Rights Committee, if applicable. Protective devices include, but are not limited to, helmets, padding, gloves, wheel chair seat belts, and other devices prescribed by physicians, occupational therapists and physical therapists. These devices are used solely for protection and specialized therapeutic intervention and not for behavioral control.

This policy does not apply to the use of helmets, kneepads, safety goggles, automobile seat belts and other commonly used protective equipment utilized by any individual, disabled or non-disabled, in occupational, transportation or recreational settings.

The use of protective devices must meet the following criteria:

1. Be prescribed for a medical reason by a licensed healthcare provider who has personally evaluated the individual.
2. Be reviewed by the behavior therapist and agency professional responsible for coordinating and monitoring the Behavior Support Plan, as well as the individual's Interdisciplinary Team.
3. Be used only in situations where the individual's history supports the conclusion that actual tissue damage or other life-threatening effects are imminent and probable in the absence of such a device.
4. Be designed, applied and appear in a manner to minimize stigma and negative reactions.

V. REFERENCE

This policy is consistent with regulations for *Service Plans for Individuals with DD Living in the Community* [7 NMAC Chap. 26 Part 5 Eff. 1/15/97] and *Rights of Individuals with DD Living in the Community* [7 NMAC Chap. 26 Part 3, Eff. 1/15/97].

This policy is clarified with specific regard to law enforcement in the LTSD Guideline: *The Use of Law Enforcement in Addressing Behavior of People with Developmental Disabilities*, Eff. 8/15/99. See also: LTSD Policy on *Crisis Prevention/Intervention Plans* (Eff. 3/1/03), Policy on *Psychotropic Medication Use* (3/1/03); and Policy on *Behavioral Support Service Provisions* (Eff. 3/1/03), and Policy on *Human Rights Committee Requirements* (Eff. 3/1/03).