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HEALTH AND SAFETY CODE - HSC

DIVISION 1.5. USE OF SECLUSION AND BEHAVIORAL RESTRAINTS IN FACILITIES [1180 - 1180.6] (*Division 1.5 added by Stats. 2003, Ch. 750, Sec. 2.*)

1180. (a) The California Health and Human Services Agency, in accordance with their mission, shall provide the leadership and coordination necessary to reduce the use of seclusion and behavioral restraints in facilities that are licensed, certified, or monitored by departments that fall within its jurisdiction.

(b) The agency may make recommendations to the Legislature for additional facilities, or for additional units or departments within facilities, that should be included within the requirements of this division in the future, including, but not limited to, emergency rooms.

(c) At the request of the secretary, the involved state departments shall provide information regarding existing training protocols and requirements related to the utilization of seclusion and behavioral restraints by direct care staff who work in facilities within their jurisdiction. All involved state departments shall cooperate in implementing any training protocols established pursuant to this division. It is the intent of the Legislature that training protocols developed pursuant to this division be incorporated into existing training requirements and opportunities. It is further the intent of the Legislature that, to the extent feasible, the training protocols developed pursuant to Section 1180.2 be utilized in the development of training protocols developed pursuant to Section 1180.3.

(d) The secretary, or his or her designee, is encouraged to pursue federal and private funding to support the development of a training protocol that can be incorporated into the existing training activities for direct care staff conducted by the state, facilities, and educational institutions in order to reduce the use of seclusion and behavioral restraints.

(e) The secretary or his or her designee shall make recommendations to the Legislature on how to best assess the impact of serious staff injuries sustained during the use of seclusion or behavioral restraints, on staffing costs, and on workers' compensation claims and costs.

(f) The agency shall not be required to implement this section if implementation cannot be achieved within existing resources, unless additional funding for this purpose becomes available. The agency and involved departments may incrementally implement this section in order to accomplish its goals within existing resources, through the use of federal or private funding, or upon the subsequent appropriation of funds by the Legislature for this purpose, or all of these.

(Added by Stats. 2003, Ch. 750, Sec. 2. Effective January 1, 2004.)

1180.1. For purposes of this division, the following definitions apply:

(a) "Behavioral restraint" means "mechanical restraint" or "physical restraint" as defined in this section, used as an intervention when a person presents an immediate danger to self or to others. It does not include restraints used for medical purposes, including, but not limited to, securing an intravenous needle or immobilizing a person for a surgical procedure, or postural restraints, or devices used to prevent injury or to improve a person's mobility and independent functioning rather than to restrict movement.

(b) "Containment" means a brief physical restraint of a person for the purpose of effectively gaining quick control of a person who is aggressive or agitated or who is a danger to self or others.

(c) "Mechanical restraint" means the use of a mechanical device, material, or equipment attached or adjacent to the person's body that he or she cannot easily remove and that restricts the freedom of movement of all or part of a person's body or restricts normal access to the person's body, and that is used as a behavioral restraint.

(d) "Physical restraint" means the use of a manual hold to restrict freedom of movement of all or part of a person's body, or to restrict normal access to the person's body, and that is used as a behavioral restraint. "Physical restraint" is staff-to-person physical contact in which the person unwillingly participates. "Physical restraint" does not include briefly holding a person without undue force in order to calm or comfort, or physical contact intended to gently assist a person in performing tasks or to guide or assist a person from one area to another.

(e) "Seclusion" means the involuntary confinement of a person alone in a room or an area from which the person is physically prevented from leaving. "Seclusion" does not include a "timeout," as defined in regulations relating to facilities operated by the State Department of Developmental Services.

(f) "Secretary" means the Secretary of California Health and Human Services.

(g) "Serious injury" means significant impairment of the physical condition as determined by qualified medical personnel, and includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, or injuries to internal organs.

(Amended by Stats. 2008, Ch. 179, Sec. 135. Effective January 1, 2009.)

1180.2. (a) This section shall apply to the state hospitals operated by the State Department of State Hospitals and facilities operated by the State Department of Developmental Services that utilize seclusion or behavioral restraints.

(b) The State Department of State Hospitals and the State Department of Developmental Services shall develop technical assistance and training programs to support the efforts of facilities described in subdivision (a) to reduce or eliminate the use of seclusion and behavioral restraints in those facilities.

(c) Technical assistance and training programs should be designed with the input of stakeholders, including clients and direct care staff, and should be based on best practices that lead to the avoidance of the use of seclusion and behavioral restraints, including, but not limited to, all of the following:

(1) Conducting an intake assessment that is consistent with facility policies and that includes issues specific to the use of seclusion and behavioral restraints as specified in Section 1180.4.

(2) Utilizing strategies to engage clients collaboratively in assessment, avoidance, and management of crisis situations in order to prevent incidents of the use of seclusion and behavioral restraints.

(3) Recognizing and responding appropriately to underlying reasons for escalating behavior.

(4) Utilizing conflict resolution, effective communication, deescalation, and client-centered problem solving strategies that diffuse and safely resolve emerging crisis situations.

(5) Individual treatment planning that identifies risk factors, positive early intervention strategies, and strategies to minimize time spent in seclusion or behavioral restraints. Individual treatment planning should include input from the person affected.

(6) While minimizing the duration of time spent in seclusion or behavioral restraints, using strategies to mitigate the emotional and physical discomfort and ensure the safety of the person involved in seclusion or behavioral restraints, including input from the person about what would alleviate his or her distress.

(7) Training in conducting an effective debriefing meeting as specified in Section 1180.5, including the appropriate persons to involve, the voluntary participation of the person who has been in seclusion or behavioral restraints, and strategic interventions to engage affected persons in the process. The training should include strategies that result in maximum participation and comfort for the involved parties to identify factors that lead to the use of seclusion and behavioral restraints and factors that would reduce the likelihood of future incidents.

(d) (1) The State Department of State Hospitals and the State Department of Developmental Services shall take steps to establish a system of mandatory, consistent, timely, and publicly accessible data collection regarding the use of seclusion and behavioral restraints in facilities described in this section. It is the intent of the Legislature that data be compiled in a manner that allows for standard statistical comparison.

(2) The State Department of State Hospitals and the State Department of Developmental Services shall develop a mechanism for making this information publicly available on the Internet.

(3) Data collected pursuant to this section shall include all of the following:

(A) The number of deaths that occur while persons are in seclusion or behavioral restraints, or where it is reasonable to assume that a death was proximately related to the use of seclusion or behavioral restraints.

(B) The number of serious injuries sustained by persons while in seclusion or subject to behavioral restraints.

(C) The number of serious injuries sustained by staff that occur during the use of seclusion or behavioral restraints.

(D) The number of incidents of seclusion.

(E) The number of incidents of use of behavioral restraints.

(F) The duration of time spent per incident in seclusion.

(G) The duration of time spent per incident subject to behavioral restraints.

(H) The number of times an involuntary emergency medication is used to control behavior, as defined by the State Department of State Hospitals.

(e) A facility described in subdivision (a) shall report each death or serious injury of a person occurring during, or related to, the use of seclusion or behavioral restraints. This report shall be made to the agency designated in subdivision (i) of Section 4900 of the Welfare and Institutions Code no later than the close of the business day following the death or injury. The report shall include the encrypted identifier of the person involved, and the name, street address, and telephone number of the facility.

(f) A facility described in subdivision (a) and that is operated by the State Department of Developmental Services shall not place any individual with a developmental disability in seclusion.

(g) (1) On a monthly basis, a facility described in subdivision (a) that is operated by the State Department of Developmental Services shall report to the protection and advocacy agency described in subdivision (i) of Section 4900 all of the following:

(A) The number of incidents of the use of behavioral restraints and the duration of time spent per incident of restraint.

(B) The number of times an involuntary emergency medication is used to control behavior.

(2) The reports required pursuant to paragraph (1) shall include the name, street address, and telephone number of the facility.

(Amended by Stats. 2017, Ch. 18, Sec. 2. (AB 107) Effective June 27, 2017.)

1180.3. (a) This section shall apply to psychiatric units of general acute care hospitals, acute psychiatric hospitals, psychiatric health facilities, psychiatric residential treatment facilities, crisis stabilization units, community treatment facilities, group homes, skilled nursing facilities, intermediate care facilities, community care facilities, and mental health rehabilitation centers.

(b) (1) The secretary or their designee shall develop technical assistance and training programs to support the efforts of facilities to reduce or eliminate the use of seclusion and behavioral restraints in those facilities that utilize them.

(2) Technical assistance and training programs should be designed with the input of stakeholders, including clients and direct care staff, and should be based on best practices that lead to the avoidance of the use of seclusion and behavioral restraints. In order to avoid redundancies and to promote consistency across various types of facilities, it is the intent of the Legislature that the technical assistance and training program, to the extent possible, be based on that developed pursuant to Section 1180.2.

(c) (1) The secretary or their designee shall take steps to establish a system of mandatory, consistent, timely, and publicly accessible data collection regarding the use of seclusion and behavioral restraints in all facilities described in subdivision (a) that utilize seclusion and behavioral restraints. In determining a system of data collection, the secretary should utilize existing efforts, and direct new or ongoing efforts, of associated state departments to revise or improve their data collection systems. The secretary or their designee shall make recommendations for a mechanism to ensure compliance by facilities, including, but not limited to, penalties for failure to report in a timely manner. It is the intent of the Legislature that data be compiled in a manner that allows for standard statistical comparison and be maintained for each facility subject to reporting requirements for the use of seclusion and behavioral restraints.

(2) The secretary shall develop a mechanism for making this information, as it becomes available, publicly available on the internet. For data currently being collected, this paragraph shall be implemented as soon as it reasonably can be achieved within existing resources. As new reporting requirements are developed and result in additional data becoming available, this additional data shall be included in the data publicly available on the internet pursuant to this paragraph.

(3) At the direction of the secretary, the departments shall cooperate and share resources for developing uniform reporting for all facilities. Uniform reporting of seclusion and behavioral restraint utilization information shall, to the extent possible, be incorporated into existing reporting requirements for facilities described in subdivision (a).

(4) Data collected pursuant to this subdivision shall include all of the data described in paragraph (3) of subdivision (d) of Section 1180.2.

(5) The secretary or their designee shall work with the state departments that have responsibility for oversight of the use of seclusion and behavioral restraints to review and eliminate redundancies and outdated requirements in the reporting of data on the use of seclusion and behavioral restraints in order to ensure cost-effectiveness.

(d) Neither the agency nor any department shall be required to implement this section if implementation cannot be achieved within existing resources, unless additional funding for this purpose becomes available. The agency and involved departments may incrementally implement this section in order to accomplish its goals within existing resources, through the use of federal or private funding, or upon the subsequent appropriation of funds by the Legislature for this purpose, or all of these.

(Amended by Stats. 2022, Ch. 589, Sec. 2. (AB 2317) Effective January 1, 2023.)

1180.4. (a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct an initial assessment of each person prior to a placement decision or upon admission to the facility, or as soon thereafter as possible. This assessment shall include input from the person and from someone whom the person desires to be present, such as a family member, significant other, or authorized representative designated by the person, and if the desired third party can be present at the time of admission. This assessment shall also include, based on the information available at the time of initial assessment, all of the following:

- (1) A person's advance directive regarding deescalation or the use of seclusion or behavioral restraints.
- (2) Identification of early warning signs, triggers, and precipitants that cause a person to escalate, and identification of the earliest precipitant of aggression for persons with a known or suspected history of aggressiveness, or persons who are currently aggressive.
- (3) Techniques, methods, or tools that would help the person control the person's behavior.
- (4) Preexisting medical conditions or any physical disabilities or limitations that would place the person at greater risk during restraint or seclusion.
- (5) Any trauma history, including any history of sexual or physical abuse that the affected person feels is relevant.

(b) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 may use seclusion or behavioral restraints for behavioral emergencies only when a person's behavior presents an imminent danger of serious harm to self or others.

(c) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use either of the following:

- (1) A physical restraint or containment technique that obstructs a person's respiratory airway or impairs the person's breathing or respiratory capacity, including techniques in which a staff member places pressure on a person's back or places the staff member's body weight against the person's torso or back.

- (2) A pillow, blanket, or other item covering the person's face as part of a physical or mechanical restraint or containment process.

(d) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use physical or mechanical restraint or containment on a person who has a known medical or physical condition and there is reason to believe that the use would endanger the person's life or seriously exacerbate the person's medical condition.

(e) (1) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use prone mechanical restraint on a person at risk for positional asphyxiation as a result of one of the following risk factors that are known to the provider:

- (A) Obesity.
- (B) Pregnancy.
- (C) Agitated delirium or excited delirium syndromes.
- (D) Cocaine, methamphetamine, or alcohol intoxication.
- (E) Exposure to pepper spray.
- (F) Preexisting heart disease, including, but not limited to, an enlarged heart or other cardiovascular disorders.
- (G) Respiratory conditions, including emphysema, bronchitis, or asthma.

(2) Paragraph (1) shall not apply when written authorization has been provided by a physician, made to accommodate a person's stated preference for the prone position or because the physician judges other clinical risks to take precedence. The written authorization may not be a standing order, and shall be evaluated on a case-by-case basis by the physician.

(f) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall avoid the deliberate use of prone containment techniques whenever possible, utilizing the best practices in early intervention techniques, such as deescalation. If prone containment techniques are used in an emergency situation, a staff member shall observe the person for any signs of physical duress throughout the use of prone containment. Whenever possible, the staff member monitoring the person shall not be involved in restraining the person.

(g) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not place a person in a facedown position with the person's hands held or restrained behind the person's back.

(h) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall not use physical restraint or containment as an extended procedure. A facility described in subdivision (a) of Section 4684.80 or paragraph (1) of subdivision (a) of Section 4698 of the Welfare and Institutions Code that is licensed by the State Department of Social Services shall not use physical restraint or containment for more than 15 consecutive minutes. The department may, by regulation, authorize an exception to the 15-minute maximum duration if necessary to protect the immediate health and safety of residents or others from risk of imminent serious physical harm and the use of physical restraint or containment conforms to the facility program plan approved by the State Department of Developmental Services pursuant to subdivision (i) of Section 4684.81 or subdivision (d) of Section 4698, as applicable, of the Welfare and Institutions Code.

(i) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall keep under constant, face-to-face human observation a person who is in seclusion and in any type of behavioral restraint at the same time. Observation by means of video camera may be utilized only in facilities that are already permitted to use video monitoring under federal regulations specific to that facility.

(j) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall afford to persons who are restrained the least restrictive alternative and the maximum freedom of movement, while ensuring the physical safety of the person and others, and shall use the least number of restraint points.

(k) A person in a facility described in subdivision (a) of Section 1180.2 and subdivision (a) of Section 1180.3 has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, the right to be free from the use of a drug used in order to control behavior or to restrict the person's freedom of movement, if that drug is not a standard treatment for the person's medical or psychiatric condition.

(Amended by Stats. 2019, Ch. 28, Sec. 1. (SB 81) Effective June 27, 2019.)

1180.5. (a) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall conduct a clinical and quality review for each episode of the use of seclusion or behavioral restraints.

(b) A facility described in subdivision (a) of Section 1180.2 or subdivision (a) of Section 1180.3 shall, as quickly as possible but no later than 24 hours after the use of seclusion or behavioral restraints, conduct a debriefing regarding the incident with the person, and, if the person requests it, the person's family member, domestic partner, significant other, or authorized representative, if the desired third party can be present at the time of the debriefing at no cost to the facility, as well as with the staff members involved in the incident, if reasonably available, and a supervisor, to discuss how to avoid a similar incident in the future. The person's participation in the debriefing shall be voluntary. The purposes of the debriefing shall be to do all of the following:

- (1) Assist the person to identify the precipitant of the incident, and suggest methods of more safely and constructively responding to the incident.
- (2) Assist the staff to understand the precipitants to the incident, and to develop alternative methods of helping the person avoid or cope with those incidents.
- (3) Help treatment team staff devise treatment interventions to address the root cause of the incident and its consequences, and to modify the treatment plan.
- (4) Help assess whether the intervention was necessary and whether it was implemented in a manner consistent with staff training and facility policies.

(c) The facility shall, in the debriefing, provide both the person and staff the opportunity to discuss the circumstances resulting in the use of seclusion or behavioral restraints, and strategies to be used by the staff, the person, or others that could prevent the future use of seclusion or behavioral restraints.

(d) The facility staff shall document in the person's record that the debriefing session took place and any changes to the person's treatment plan that resulted from the debriefing.

(Added by Stats. 2003, Ch. 750, Sec. 2. Effective January 1, 2004.)

1180.55. (a) In the case of an incident involving the use of seclusion or behavioral restraints in a short-term residential therapeutic program, the facility shall, in conjunction with its process for a clinical and quality review and a debriefing as described in Section 1180.5, comply with all of the following steps:

(1) By no later than the day following the incident, notify any foster child who has been subject to seclusion or behavioral restraints of their personal rights, as specified in Section 16001.9 of the Welfare and Institutions Code, including, among others, the right to be provided with the contact information of the Community Care Licensing Division of the State Department of Social Services and the Office of the State Foster Care Ombudsperson, the right to contact either or both of these offices immediately upon request regarding any violations of the foster child's rights, the right to speak to representatives of these offices confidentially, and the right to be free from threats or punishment for making complaints.

(2) Within seven days, provide a description of the incident, in both oral and written forms, to the person who was subject to seclusion or behavioral restraints and, as applicable, to the person's parent, foster parent, guardian, Indian custodian, or other authorized representative, and attorney, if any, and for Indian children, as defined by subdivisions (a) and (b) of Section 224.1 of the Welfare and Institutions Code, the tribal representative. At a minimum, the description shall contain information on all of the following:

(A) The actions taken during the incident.

(B) The rationale for the actions.

(C) The personnel implementing the actions.

(D) The duration of the incident.

(3) Within seven days, provide a copy of the written description described in paragraph (2) to the State Department of Social Services.

(b) (1) The State Department of Social Services shall review all reported incidents involving the use of seclusion or behavioral restraints and shall investigate any incidents that indicate a potential health and safety concern or licensing violation. As part of the assessment to determine if an investigation is required, the department shall determine whether the use of seclusion or behavioral restraints potentially violated any licensing laws and regulations or violated the licensee's approved emergency intervention plan.

(2) If the department determines that an incident involving the use of seclusion or behavioral restraints should be investigated, the department shall provide the Office of the State Foster Care Ombudsperson with a copy of the incident report. The ombudsperson shall exercise their discretion in determining whether to investigate the incident pursuant to paragraph (3) of subdivision (a) of Section 16164 of the Welfare and Institutions Codes.

(c) (1) By January 1, 2026, the department shall display, on its internet website, data that is specific to short-term residential therapeutic programs and that displays all of the following:

(A) Data collected pursuant to paragraph (4) of subdivision (c) of Section 1180.3, with regard to seclusion or behavioral restraints, as applicable to short-term residential therapeutic programs.

(B) Written descriptions collected pursuant to subdivision (a), subject to the limitations described in subdivision (d).

(C) The number and types of licensing administrative actions taken against a short-term residential therapeutic program or individual associated with the short-term residential therapeutic program for the improper use of seclusion or behavioral restraints.

(D) Completed investigation reports.

(2) The department shall update the data described in paragraph (1) biannually.

(d) (1) Data described in subdivision (c) shall exclude any personally identifiable information of the person, personnel, or other individuals listed in paragraph (2) of subdivision (a).

(2) This section shall be implemented to the extent not in conflict with any applicable federal or state privacy laws.

1180.6. The State Department of Public Health, the State Department of State Hospitals, the State Department of Social Services, the State Department of Developmental Services, and the State Department of Health Care Services shall annually provide information to the Legislature, during Senate and Assembly budget committee hearings, about the progress made in implementing this division. This information shall include the progress of implementation and barriers to achieving full implementation.

(Amended by Stats. 2013, Ch. 23, Sec. 6. (AB 82) Effective June 27, 2013.)