Definitions of regulated restrictive practices

This information sheet provides guidance as to the definitions of regulated restrictive practices and is part of a series of information sheets that have been developed to help everyone understand the 'Authorisation of Restrictive Practices in Funded Disability Services Policy' (the Policy) that applies in Western Australia from 1 December 2020.

For further detailed information please refer to the authorisation of restrictive practices website.

Regulated restrictive practices

A restrictive practice is defined as any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability, with the primary purpose of protecting the person or others from harm. There are some situations where restrictive practices may be used, however the decision to use restrictive practices needs careful clinical and ethical consideration.

It is important to note that identification of restrictive practice is often not straightforward and can be very nuanced and context specific. It is important that wide consultation occurs, and includes people with expertise in behaviour support, where appropriate, to consider whether a practice may be defined as restrictive.

Seclusion

Seclusion is defined as the sole confinement of a person with disability in a room or physical space at any hour of the day or night where voluntary exit is prevented, implied, or not facilitated.

Some examples of seclusion may include:

- time out alone in a locked room, the person's home or any physical space where the person cannot voluntarily exit
- a person being told to stay in their bedroom and being told they cannot come out until they are calm. This is implied seclusion as the person believes they cannot leave until they are calm.

Seclusion does not include when a person chooses to have quiet time or space on their own in their room, where they are able to come out at any time on their own accord. It also does not include someone choosing to lock their door for privacy, where they are able to unlock the door and exit whenever they choose to.

Chemical restraint

Chemical restraint is the use of medication or chemical substance for the primary purpose of influencing a person's behaviour. It does not include the use of medication prescribed by a medical practitioner for the treatment of, or to enable treatment, of a diagnosed mental disorder, a physical illness or physical condition.

Implementing Providers have a role in gathering and sharing comprehensive, quality information for medical professionals to inform their practice. Implementing Providers and/or NDIS Behaviour Support Practitioners need to confirm the purpose of medication use with the medical practitioner as well as clarify the conditions under which medication should be administered. If there is uncertainty as to whether the medication is prescribed to address an underlying condition or behaviour support needs, then it must be interpreted as a chemical restraint. See the 'Chemical restraint' information sheet listed on the restrictive practices resources page under 'Providers and Behaviour Support Practitioners' for further guidance, as well as an example 'Purpose of medication clarification' document (listed on the restrictive practices resources page under 'Forms').

Physical restraint

Physical restraint is the use or action of physical force to prevent, restrict or subdue movement of a person's body, or part of their body, for the primary purpose of influencing a person's behaviour.

Some examples of physical restraint may include:

- physically holding any part of a person's body, to stop a behaviour from occurring, e.g. holding down a person's hand to stop them from pulling their hair
- using your body to physically guide a person to walk in a certain direction, where they do not want to go.

Physical restraint does not include if a person needs assistance in their daily living activities to complete a task safely and the person accepts this support, for example if the person needs physical help with dressing or brushing their teeth.

Physical restraint under the Policy also does not include the use of a hands-on technique in a reflexive way to guide or redirect a person away from potential harm or injury, consistent with what could reasonably be considered exercising care towards a person.

Mechanical restraint

Mechanical restraint is the use of a device to prevent, restrict, or subdue a person's movement for the primary purpose of influencing or controlling a person's behaviour. This does not include the use of devices for therapeutic or non-behavioural purposes.

It is possible for a therapeutic device to be used inappropriately. For example, a qualified allied health professional may prescribe a device to support posture at mealtimes and specify it is only to be used at these times. If the device is used outside of these times for controlling behaviour, it would constitute a mechanical restraint.

Environmental restraint

Environmental restraint involves restricting a person's free access to all parts of their environment, including items or activities.

Examples of environmental restraint include locked doors, cupboards and fridges where the person cannot open them.

Deciding whether or not a practice constitutes a regulated restrictive practice

It can be difficult at times to identify whether or not a particular practice constitutes a regulated restrictive practice.

Some questions that may help with this decision include:

- Is this practice typical for the age of the person? For example, use of a cot for a one year old.
- Would a typical person in the community expect to be able exercise choice in relation to the matter? For example, drinking soft drink or coffee.
- Is the person still able to exercise choice and control around the practice? For example, the front door is locked but the person has a key to open it.
- Why is the practice being used? Is the practice being used as a way to control behaviour or for another reason? For example, use of an arm splint prescribed by a qualified allied health professional for therapeutic reasons or use of an arm splint to stop behaviour of the person biting their hands.

In circumstances in which the use of restrictive practices may be considered necessary, it's important to consider the principles that underpin and guide the use of restrictive practices, which are outlined in section 4.1.2 of the 'Procedure guidelines for authorisation of restrictive practices in NDIS funded disability services – Stage two' (listed on the restrictive practices resources page under 'Policy and procedure guidelines).

See also ‘Principles guiding the use of regulated restrictive practices’ (listed on the restrictive practices resources page under ‘Providers and Behaviour Support Practitioners’) for further information and guidance.

Out of scope

Prohibited practices

Certain physical restraint practices and aversive practices, listed on pages 12-13 of the Policy, should never be used. Use of these practices cannot be authorised under the Policy and should never be used under any circumstances. See the ‘Prohibited practices’ information sheet (listed on the restrictive practices resources page under ‘Providers and Behaviour Support Practitioners’) for more information about these practices.

Therapeutic or safety devices or practices

There are some devices or practices prescribed for therapeutic or safety purposes that place limits on a person’s freedoms or freedom of movement but that may not be considered a regulated restrictive practice and are out of scope of the Policy.

If the person objects to the use of the therapeutic device or practice, it would be considered a regulated restrictive practice and authorisation in accordance with the Policy is required.

In all circumstances where a device is used for therapeutic or safety purposes, it must be prescribed on the basis of an appropriate medical or allied health assessment and include clear guidelines as to the limitations of the use of the device. The device can only be used in accordance with the guidelines in order to be considered a therapeutic or safety device.

Use outside of the guidelines may constitute a restrictive practice under the Policy and require authorisation. For example, a person may be prescribed a wheelchair wedge and strap to hold them in a safe position at mealtimes to minimise risk of asphyxiation. If that person was left restrained for some time after the meal has ended, then the use of that device and strap may be considered a restrictive practice.

Non-intentional risk behaviours

Non-intentional risk behaviours are defined on page 12 of the Policy. Essentially, this describes the rare scenario where a person may engage in a behaviour non-intentionally that may cause, or actually causes, harm or risk to themself or others. One example may be involuntary limb movements due to a neurological or physical condition, resulting in inadvertently hitting someone or injuring their limb against a hard, sharp or hot object.

Substantial evidence is required to conclude that a person's behaviour is non-intentional. A minimum standard is an allied health or medical assessment indicating that the person's behaviour does not serve a function for the person that is specific to the behaviour that causes the risk.

Where there is doubt as to whether a behaviour is non-intentional, it must be viewed as intentional and any restrictions that are imposed to safeguard the person and/or others need to be regarded under the Policy as a regulated restrictive practice.

Court orders

Where a court order specifically indicates a practice or limitation be in place, that would otherwise be considered a regulated restrictive practice, it is considered outside of the scope of the Policy. For example, a community-based order stipulating a curfew.

If a restrictive practice is implemented that goes beyond the bounds of a court order, it would be considered a regulated restrictive practice. For example, installation of a locked gate to which the person does not have a key in addition to a community-based order specifying a curfew. Use of the locked gate to implement the curfew of the court order is considered a regulated restrictive practice as this is beyond the stipulation of the court order.

Contact information

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