

GUIDELINES AND REQUIREMENTS FOR THE USE OF RESTRICTIVE MEASURES

DHS is reviewing the restrictive measures guidelines and anticipates issuing revised guidelines by the end of 2017.

A collaborative effort of:
STATE OF WISCONSIN
Department of Health Services

Bureau of Assisted Living
Division of Quality Assurance

&

Bureau of Long Term Support &
Office of Family Care Expansion
Division of Long Term Care

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SECTION 1 WHO IS COVERED BY THESE GUIDELINES

These guidelines apply to adults with a developmental disability or traumatic brain injury who meet the definition of “patient” in Wisconsin Statute § 51.61 (1) and are subject to the possible use of restraints, isolation, protective equipment or medical restraints here-in-after referred to as “*restrictive measures*”¹. The coverage of these guidelines includes adults funded by the Community Integration Program (CIP 1A, CIP 1B), the Brain Injury Waiver (BIW) and persons with a developmental disability served by Family Care, PACE and Partnership programs. Children who have long term support needs who are participants in any of the CLTS waivers are also covered.

These guidelines and the rule governing the approval and use of restrictive measures do not apply to informal caregivers. The use of a restraint by an unpaid “informal” caregiver is not subject to the patient’s rights protections set forth in Wis. Stat. § 51.61 and the required approval process under Wis. Admin. Code § HFS 94.10. An “informal” caregiver is one whose services are neither paid for by nor arranged through the department or a county or Managed Care Organization, often a parent/guardian or another relative of an adult in his or her home.

In spite of the fact that informal care givers using restraints are not governed by HFS 94.10, nor is such usage subject to this approval process, county waiver agency, Managed Care Organization (MCO) and provider staff should be alert to the possibility that the use of a restrictive measure may be problematic for other reasons. Under a Medicaid Waiver program, the requirement that participant health and safety be assured creates an obligation for county waiver agencies and MCOs to ensure safety. Moreover, the inappropriate use of restrictive measures by informal caregivers in settings not covered by HFS 94.10 may be considered to be abuse or neglect under elders/adults-at-risk laws outlined in s. 46.90 (1)(a) and s. 55.043 (1m). Under these statutes “unreasonable confinement or restraint” is a form of abuse and should be reported to the appropriate local Elder at Risk, Adult at Risk or county APS agency. For additional information on how to address such situations, please see <http://dhs.wisconsin.gov/aps/index.htm>. If you have questions related to adults-at-risk issues, please submit them to stopabuse@dhfs.state.wi.us.

These guidelines also apply to “private pay” consumers **from any target group** who live in an adult family home licensed under HFS 88 or licensed community-based residential facility (HFS 83) even if they do not fall under the definition of “patient” in Wisconsin Statute § 51.61 (1). In these cases please contact the Division of Quality Assurance Assisted Living Regional Director to determine the review and approval process. Regional contacts can be found at: http://dhfs.wisconsin.gov/rl_DSL/Contacts/ALSreglmap.htm

The requirement to obtain departmental approval for the use of restrictive measures for the people and provider settings listed above arises from Wisconsin Statutes § 50.02(2) and § 51.61(1) and § 51.61 (1) (i) and Wis. Administrative Code § HFS 83.21(4) (n) and § HFS 94.10. In addition, the Center for Medicare and Medicaid Services (CMS) requires State Agencies that administer Home and Community-based Waivers under Section 1915(C) of the Social Security Act to ensure the health and welfare of waiver participants. These guidelines directly relate to this federal requirement.

Failure to obtain approval for the use of restrictive measures according to the process and criteria contained in this guideline will be considered to be a violation of the person’s rights under S. 51.61 or S. 50.09 and HFS 94 or HFS 83 as applicable, by the Department. Such failure will also be considered a violation of the terms and conditions of the State and County Contract under S. 46.031 and may result in a disallowance for some or all costs associated with serving the waiver participant.

SECTION 2 APPROACH TO CHALLENGING/ DANGEROUS BEHAVIOR

The department’s approach to dangerous or challenging behavior is based on the strongly held belief that techniques involving coercion including restrictive measures are the least desirable way of addressing such behavior. Restrictive measures should be considered the method of last resort. The provision of

¹See the attached glossary for the definition of restrictive measures

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behavior supports in lieu of restrictive measures is an essential step for persons who engage in dangerous/ challenging behavior and must precede the use of restrictive measures. Requests for their use must be preceded with thoughtful attempts to use less intrusive, alternative behavioral strategies to determine if such methods can adequately support the individual's positive behaviors. Only after it has been determined that less restrictive behavior support strategies are ineffective, may service providers, county waiver agencies or /MCOs consider restrictive measures. If restrictive measures are considered, the provider must develop a behavior intervention plan and apply for county and departmental approval for their use.

This approach to such behavior is based on the belief that all behavior, including challenging or dangerous behavior, has purpose and meaning for the individual. Further, the approach also assumes that people who behave dangerously deserve to be treated with respect even if restrictive measures are used and are also entitled to as high a quality of life as they are capable of achieving.

The approach to the approval for the use of restrictive measures also involves a very careful and deliberative process conducted by qualified people. While the process and qualifications contained in these guidelines are quite prescriptive, providers and county waiver agencies or s may seek approval for alternatives to elements of the process or for the qualifications of staff participants. Such requests must explain why the request is being made and provide sufficient justification to the department staff that the modified process will be as effective with the alternative proposed.

SECTION 3 STRATEGIES FOR RESPONDING TO CHALLENGING/DANGEROUS BEHAVIOR

When dangerous or challenging behavior is present, behavior supports used must be included as part of the individual's service plan. Service plans must be person-centered, assist the person to attain his or her preferred vision of how to live and be based on a complete understanding of the individual.

This includes his or her functional abilities, the physical environment which the person occupies, any/all biological influences on behavior that may be present and all psychological and social factors that may influence behavior. Behavior supports included in this plan must be the most positive, effective and least intrusive possible for the individual and circumstance. They should be subject to adjustment, as needed. There also must be ongoing efforts to help a person develop skills to more effectively communicate his or her needs and wishes and achieve greater independence.

In situations when dangerous/challenging behaviors are present, **an interdisciplinary team must be organized for each program participant** to implement the process described in these guidelines. The team may include county/MCO and/or provider staff. The role of this team is to develop and oversee the behavior intervention plan which includes identifying and overseeing the use of behavior support strategies and behavioral interventions utilized for the person. The team is required to follow all applicable requirements, procedures and strategies discussed in these guidelines that apply to the team.

The following strategies should be tried prior to considering the use of restrictive measures in the sequence discussed.

ASSESSING FACTORS RELATED TO CHALLENGING/ DANGEROUS BEHAVIOR

The first action that the interdisciplinary team should take is to **obtain additional information** about the person and the nature of the dangerous, challenging behavior. This may be done by a variety of assessment strategies. This is a critical step since the information obtained forms the basis for the strategies that are eventually selected and used. The assessments should result in an adequate description and understanding of the behavior. Team members should consider a number of ways for obtaining this information including interviewing others who know the person, observing the person in situations where it is most likely the behavior may occur and/or collecting information from others about how often the behavior occurs and the events that appear to be associated with the behavior.

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The team should also obtain **technical assistance and/or formal outside assessments**, as needed, to determine factors that are important to understand how to respond to the dangerous, challenging behavior. The assistance may be provided by a number of professionals from a variety of fields including physicians, psychiatrists, nurses, or other medical specialists, “qualified behavior specialists” (see definition in appendix), speech therapists and/or communication specialists and psychologists, counselors or mental health specialists. The support and service coordinator/care manager on the team should document the content of these discussions and decisions resulting from this assistance in the participant’s record. The documentation should identify the professional who provided the assistance, contain a description of their credentials and the results of assessments or recommendations made.

The interdisciplinary team should consider having a number of different types of assessments performed as part of their planning process. Assessments that may yield useful and essential information about factors associated with the individual’s dangerous/challenging behaviors are critical to an effective strategy. These assessments may include:

- **Medical/ health assessments** to determine if any illnesses, injuries, conditions, current treatments or medications, or dental health issues affect, contribute or even cause the challenging/ dangerous behavior.
- **Quality of life assessments** to determine the extent to which a person has or has not realized his or her preferred lifestyle and vision of him or herself; such assessments should consider the amount of control the person has over his or her immediate environments and whether or not the person lives the way he or she wants to live, including whether or not the amount of independence a person has during daily activities is acceptable to the person, how much access the person has to friends, family and places in the community, and the extent to which these factors influence behavior.
- **Environmental assessment** to determine if factors in the person’s physical environment cause or contribute to the challenging behavior. These may include noise level, space, attractiveness, cleanliness, access to desired materials or possessions, opportunities to make decisions and choices about the physical environment, the responsiveness of others present in the places the person frequents and/or the person’s communication style and how housemates, friends, family, staff and others communicate and interact with the person.
- **Functional assessment** to identify the purpose(s) or function(s) of the person’s challenging/ dangerous behavior. This assessment may include an analysis that systematically manipulates and studies antecedent and consequent events which may influence the person’s behavior, so that the function of the behavior may be understood.
- **Psychiatric assessment** to identify if a psychiatric condition is present, the extent to which it may influence the dangerous/ challenging behavior and if psychotropic medication may be indicated.
- **Other assessments** such as speech and language, communication, hearing or psychological assessments to determine if there are other factors that may be influencing or causing the person’s dangerous/ challenging behavior.

After these assessments have been completed, the interdisciplinary team should review and integrate the information and determine if the information obtained is sufficient to understand the conditions and factors likely to be positively correlated with the person’s dangerous/ challenging behavior or if additional assessments may be needed. After all needed assessments have been completed, the interdisciplinary team should then identify and employ behavior support strategies to address the behavior(s). The support/ service coordinator/ care manager must document a summary of the interdisciplinary team’s discussion of assessment results and their decisions on supports in the individual’s file or record. This material will be needed for any future application for the use of restrictive measures and will enable the team to review how a situation develops over time.

CREATING SUPPORTIVE ENVIRONMENTS

The first strategy that should be considered by the interdisciplinary team is to create more supportive environments for the person. This may include creating opportunities to change or adopt a different lifestyle that may be preferred by the person, building or strengthening significant relationships with family, friends or staff or assisting the individual to more effectively communicate so he or she can effectively express wants and needs. The interdisciplinary team may also consider altering the physical

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environments in which the person lives, works, and/or spends his or her day. They may consider ways to modify routines or schedules of activities.

Enhancing the environment may also involve increasing the skills of family members, provider agency staff and others. The county and provider staff may also revise or provide additional supports appropriate to the situation. All of these ways can serve to avoid the use of restrictive measures. As life circumstances and how a person responds change over time, the person's interdisciplinary team is expected to adjust and readjust the person's environment as necessary.

The team should continuously identify, describe and discuss any dangerous/challenging behavior(s) that appear, particularly since these may result in proposals for the use a restrictive measure. The description of the behavior should be done in writing and kept in the person's file along with any data summaries or graphs prepared for this purpose. Doing a written description and maintaining it in the file provides a good history for people who may support the person in the future. This information also may be needed and required with the DDES application for restrictive measures.

The recorded description is important because it shows the history of the county and provider's response over time. It should identify, define and describe each specific kind of dangerous/challenging behavior and discuss why and to whom it is dangerous. It should also identify the locations and environments where each behavior typically occurs and discuss events (if known) or changes in life circumstances that appear to trigger or are associated with each behavior. Finally, the description should indicate how other people respond to each behavior. The team should make sure to include a record of the frequency, duration, or intensity of each behavior and discuss whether or not there have been any recent changes.

DEVELOPING BEHAVIOR SUPPORT STRATEGIES

Based upon the assessment information obtained, the Interdisciplinary Team next needs to identify and implement the most appropriate **behavior support strategy(ies)** available. These strategies are intended to support a person by creating conditions that reduce the occurrence of the dangerous/challenging behavior in as short a time period as possible. These strategies are also intended to be the most positive and least restrictive and intrusive strategies likely to be effective in reducing dangerous/challenging behavior(s) for that individual in the specific circumstance. The Interdisciplinary Team should consider one or more of the following behavior support strategies:

- Determine if any needed **medical interventions** should be arranged to help eliminate or treat any conditions contributing to the person's challenging behavior. Such interventions may include: initiating or changing medications to eliminate pain or discomfort or to treat a physical illness or condition, initiating or changing treatments prescribed for an illness or condition and/or adjusting the person's life style or self-management to support desired health outcomes.
- Determine if any **adjustments to the individual's support plan** should be made. These would be intended to assist the person do more things he or she wants to do or live their daily lives differently. This could include developing a more acceptable schedule of activities, finding a more suitable job or work situation, moving to a new place or modifying their existing home environment. They may benefit from developing new relationships, providing more opportunities to engage in preferred activities, eliminating barriers that prevent a person from accessing friends and family, changing housemates and/or direct care staff and modifying supports so that the person may experience or develop greater independence in daily activities.
- Based on the assessment information, determine if any **environmental changes** are needed to minimize or eliminate factors contributing to the person's dangerous/challenging behavior. Such changes may include altering the physical environment to reduce noise, increasing space and/or ensuring access to preferred items. Other possible changes include eliminating the need for the person to attend undesired activities, changing the schedules of activities, assisting the staff to better communicate with the person, increasing the person's control over activities and his or her environment and/or assisting the person to communicate more effectively.

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- Determine if any **psychiatric services** including psychotropic medication recommended by a psychiatrist/physician should be used to improve or stabilize a diagnosed psychiatric condition.
- Determine if **behavior guidelines** should be developed to help organize staff responses aimed at lessening the likelihood of the behavior and assisting to guide the response to the challenging behavior if it occurs. Such behavior guidelines may be incorporated into the individual's waiver or provider service plan or may be a separate document attached to either or both plans. In general, behavior guidelines should include descriptions of the behavior, the situations and circumstances in which the behavior is likely to occur, the signs and signals that occur prior to the behavior, how staff and others are expected to respond to the person when the behavior occurs and how staff and others are expected to encourage or support the expression of more appropriate responses.

The Interdisciplinary Team should select and implement one or more of these behavior support strategies appropriate for the level of support that the person requires. Implementation should involve any professionals needed to develop the particular behavior support strategy. The team should also identify the person(s) responsible for implementing each strategy. Someone designated by the team **must** collect and document all decisions concerning the selected behavior support strategies, the timeframes for their implementation and document the effectiveness of each strategy used and how effectiveness will be measured. This is important so a historical perspective on progress can be obtained later on.

The manner of record keeping should be determined by the professional(s) responsible for the strategy and/or the Interdisciplinary Team. DDES is not requiring any specific format at this time and would prefer to leave this a county/MCO decision. The expectation is that the descriptions of the strategies and their effect on the person with whom they are used will be sufficiently clear to an informed outsider.

The professional(s) responsible for developing a specific behavior support strategy must regularly review the implementation and effectiveness of the strategy to assess the individual's progress according to the expectations specified in the behavior support plan. Written review schedules must be included in the person's service plan and must be provided to the support and service coordinator/ care manager. The support and service coordinator/ care manager and interdisciplinary team are also expected to review the implementation and effectiveness of each behavior support strategy according to the plan.

Based upon these periodic reviews, the support and service coordinator/care manager, involved professionals and interdisciplinary team should initiate changes in the behavior support strategies if such a change appears warranted. They should also determine if it is appropriate to go to the next level of this process; the behavior intervention plan.

DEVELOPING BEHAVIOR INTERVENTION PLANS

After behavior support strategies have been consistently implemented and sufficient time has elapsed to judge the effectiveness of these strategies, the interdisciplinary team should determine whether or not the presenting situation has been sufficiently resolved. If the behavior support strategies have resolved the presenting problem, the team can consider its work successfully completed for the present time period. The team should establish a reasonable expectation for the provider to report on the individual's status to assure that the individual's life situation continues to be stable and is working well for all concerned.

If the support strategies **have not** completely resolved the situation to the team's satisfaction, the team should decide if a formal behavior intervention plan is needed. **The decision to prepare a behavior intervention plan is the first step of the restrictive measures application process** discussed below. The team should also determine if the support strategies tried have had such a minimal effect on the behavior that staff and others are at risk of harm due to the person's dangerous/challenging behavior. If this is the case, in the short term, staff should be encouraged to consider calling in appropriate law enforcement authorities to protect them in the situation.

The behavior intervention plan is intended to specify longer term behavioral interventions necessary to respond to the behavior. If the team determines such a plan is warranted, a structured planning process

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should be initiated. **It should be emphasized that a formal behavior intervention plan should only be considered after behavior support strategies have not provided the needed support for the person to eliminate dangerous/challenging behaviors or circumstances are such that attempting other behavior support strategies may increase the risk of harm to self or others.**

The behavior intervention plan must clearly identify the circumstances or behaviors that appear to precede challenging or dangerous behavior. Specific procedures and strategies proposed in the plan should assist the person to communicate in more adaptive, effective ways so that the person's need to engage in dangerous/challenging behavior will likely be reduced. **These procedures may include restrictive measures if there are no other reasonable or feasible alternatives.** If restrictive measures are proposed, the plan must identify and describe each/all measures proposed to be used in sufficient detail so the reader gains a full understanding of how, when and why they are to be used instead of less restrictive measures and why the(se) measure(s) was (were) chosen. The plan must also describe ways in which the use of any measure proposed can be reduced or eliminated over time.

County/MCO and provider staff **should not** think of restrictive measures as the solution for addressing the dangerous/challenging behavior but **should instead think of them as a temporary strategy that should be eliminated as quickly as possible.** The plan should document treatment rationale, procedures, generalization and maintenance strategies, data collection, and schedule for reviewing progress. It must also explicitly identify the name(s) of any/all behavior specialist(s) used, the provider agency and the placing agency.

The behavior intervention plan developed must be incorporated into the person's individualized service plan and/or required provider level support or service plan and must be physically (or electronically) attached to these plans in county's/MCO's and providers' files. The plan must be based on, consistent with and reference all completed assessments described above.

The intervention(s) proposed in the plan will be judged on their potential effectiveness in addressing the dangerous/challenging behavior and their level of intrusiveness. Interventions must be the least intrusive, effective intervention(s) available that are likely to assist the person in developing alternative behaviors. If the application convincingly presents this, the plan will be approved. If the plan does not achieve this, DLTC will work with or arrange assistance for the applicant to find other, more effective ways of intervening.

The plan must include a description of the proposed step-by-step procedures for applying or implementing the restrictive measure along with a description of how it will be monitored and the criteria that govern release of the person from the measure. The plan should also identify the maximum duration for the use of the measure and identify all persons who may use the measure and who can authorize the use of the measure. In addition, the plan must address the methods or strategies that will be employed to attempt to reduce or eliminate the restrictive measure.

The proposal for the use of a restrictive measure must be a component of that behavior intervention plan. DLTC is not providing a form or even a standard format for behavior support plans at this time. The provider should try to be logical and comprehensive in the presentation of the issues and methods proposed in the plan. At minimum, the plan must address the requirements detailed in these guidelines. This plan is a key component of the required application package for approval of a restrictive measure.

SECTION 4 EMERGENCY USE OF RESTRICTIVE MEASURES

Before discussing the application and review process required for the use of restrictive measures in community settings, we need to address how to deal with situations where restrictive measures may need to be used to respond to an emergency. These are the *only* time restrictive measures may be needed and used but where the process described in the preceding subsections will not occur prior to implementation. We recognize that the use of the application process in these guidelines is not possible when the need arises under emergency conditions.

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The definition of emergency in the attached glossary emphasizes that the dangerous/challenging behavior must be unanticipated. The unanticipated nature of dangerous/ challenging behavior is the key factor for a situation to be considered an emergency. Emergencies are situations that either have not happened before or have not happened more than two times in a six month period and were not anticipated to occur again. The Department will make an exception to the requirement for prior approval *if* the situation meets this definition. Specifically, compliance with the provisions of this guideline dealing with the application and approval process is **not** required when a situation meets the definition of an emergency. If the same or similar “emergency” occurs more than twice in a six month period, providers and counties/MCOs may no longer consider this behavior/situation an emergency. All future interventions to respond to such a situation require the provider and county/MCO to go through the planning process described above and the approval process contained in this document.

Restrictive measures may be used in emergency situations if **all** of the following conditions are present:

- An emergency exists;
- a person’s behavior poses an immediate threat of harm to self or others;
- there is no approved behavior intervention plan for that person dealing with the planned use of restraint, isolation or protective equipment intended to address this behavior or there is an approved plan but it has been found to be ineffective;
- the behavior in question has either not occurred previously or could not have been reasonably foreseen to occur based on observations of the individual’s behavior

In addition, restrictive measures may be used in emergency situations if the dangerous/challenging behavior that **has** occurred two or more times in the last six months is the subject of a current and ongoing behavior intervention planning process where the planning process is underway but not complete. This exception should be avoided if possible by giving priority to the planning process. If this exception applies, the provider must notify the county/MCO, who in turn must notify the assigned CIS (in CIP, BIW & CLTS waivers). If this occurs in a facility licensed by DQA, regional DQA/Bureau of Assisted Living licensing staff must be notified.

Most provider agencies already have written emergency or crisis procedures for dealing with many unanticipated situations in place. The unexpected occurrence of dangerous behavior by persons they serve should be covered in such policies. If the provider lacks such a policy but serves people covered by these guidelines, they must develop such a policy. The provider agency’s written policy for such situations must be available on request from any state staff involved in the restrictive measures review process. The policy should be accessible to all direct service staff and be the subject of training for all such staff. If an emergency occurs, provider agency staff should first follow these emergency or crisis procedures to see if these can resolve the emergency situation. The use of restrictive measures should be the very last option for these procedures. There may also be person-specific procedures not involving restrictive measures contained in the participant’s individual support plan or behavior intervention plan, if there is one. The agency should use these procedures before using a restrictive measure.

In the event emergency procedures are ineffective or are not applicable to the existing situation, provider agency staff should implement de-escalation strategies to the extent possible. De-escalation strategies are a series of steps including such techniques as response blocking, response interruption and redirection and graduated physical guidance.

If all alternative measures tried prove to be ineffective and the emergency situation continues and is placing the individual and/or others at risk of harm, the provider agency staff may use emergency manual restraint, mechanical restraint, isolation or protective equipment to protect the person or others from imminent harm. The restrictive measure chosen should be the least intrusive option likely to be effective. If this measure is either ineffective or contraindicated, the provider may use other measures involving greater restriction. Each measure used should be documented in the person’s file along with the reasons the measure was selected, a description of why it was judged to be ineffective or contraindicated and why any other measure used was chosen. All of these explanations should be documented in the provider’s participant file so they can be referenced in the review of all future applications for restrictive measures.

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If the need for a medical restraint occurs in an emergency situation, the procedures that apply to the emergency use of other restrictive measures apply to medical restraints as well. Medical restraints may be used in emergency situations only to protect the person or others from harm, must be the least restrictive approach, and must be used for the shortest time possible.

The following are other requirements that must be addressed for the provider to be able to use emergency restrictive measures absent the approval process discussed later in these guidelines:

1. **WRITTEN POLICY REQUIRED:** The provider agency must have a written policy describing the process to be used if emergency use of restrictive measures is possible. The policy must identify the specific staff person or type of position that is authorized to select and initiate the emergency use of the restrictive measure and responsible for related procedures when an emergency situation is present. The policy must, at minimum, require eventual authorization by the agency director or designee be obtained for any measure as quickly after its use as is feasible. Such authorization must be limited to the specific, current emergency episode. The agency is required to document the date, time and method of all attempts at notification.
2. **RELEASE CRITERIA REQUIRED:** The agency must ensure that the staff person, director or the director's designee has established person-specific release criteria for the specific situation. If done by the authorized staff person, these should be authorized and approved by the agency director or designee with approval obtained as soon as possible. Release criteria documentation must include a description of the specific targeted behavior(s) that must cease, provide that the person is to be released when he or she is calm and not a danger to him or herself or others and any other conditions that must be present before the person is released. The criteria for release should also identify cues that are unique to the person for determining if the person appears to be calm and no longer a danger. Any threats to a person's health or well being caused by the measure during its application require the immediate release from restrictive measure and notification of supervisory and/or nursing personnel.
3. **REAUTHORIZATION OF USE REQUIRED:** Reauthorization for the use of the measure should be obtained if an emergency recurs after release from restraint. Recurrence of the emergency three times should cause the agency to initiate the process for obtaining approval for the planned use of restrictive measures.
4. **TIME LIMITS AND PHYSICIAN ORDERS:** Restraint or isolation may be initially authorized in emergencies for up to one hour. After an hour, the provider must attempt to contact and consult the individual's physician and obtain a written order from the physician if the physician indicates that continued use of the measure is appropriate. The physician's initial written authorization is limited to a maximum of two additional hours. The physician may reauthorize the use of the measure selected.
5. **TRAINED STAFF REQUIRED:** The provider agency director or designee must ensure that staff applying/using the restraints or protective equipment are adequately trained and able to use the restraint competently. The director should proactively seek the assistance of external professionals (e.g., behavior analyst, behavior specialist) when needed to assist staff in responding to the emergency.
6. **MEASURE EMPLOYED MUST BE MONITORED:** The use of the measure selected for response to the emergency must be monitored in a manner that conforms to the requirements in these guidelines.
7. **INVOLVE LAW ENFORCEMENT WHEN NECESSARY:** If the dangerous/challenging behavior in the emergency reaches a point where staff believe they are not able to manage the situation effectively or safely and that harm to the person, staff or others is likely to result, staff should call appropriate law enforcement authorities to handle the situation. It is recommended that discussions and even memoranda of understanding between the county waiver agency/MCO be developed detailing the mutual expectations of one another for these and other situations when law enforcement involvement is desirable or needed.

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8. **CRITICAL INCIDENT REPORTING REQUIRED:** For adult participant's in the CIP 1 and BI Medicaid Waiver programs, only unplanned, emergency use of restrictive measures is a reportable critical incident, requiring completion of a **DDES 2558 County Critical Incident Report** (See *DDES Memo Series 2003-02 Responding to and Reporting Critical Incidents* for a description of applicable procedures².) Such use will typically not be able to be approved due to the urgency of the situation. The County's assigned CIS will review Critical Incident Reports involving emergency use of a restrictive measure and recommend appropriate actions. Only emergency use is reportable- It is not necessary to make such reports if the use of the measure is done pursuant to a behavioral intervention plan. Family Care COs should also consider emergency use of restraints a critical incident and should conform to contractual expectations concerning compiling data on these episodes in lieu of reporting to CIS.
9. **CIS NOTIFICATION REQUIRED:** The Community Integration Specialist (CIS) assigned to the county responsible for the CIP 1 or BI Wavier participant or the county in which the person is served if the county is the placing agency, must be notified of each emergency use of restrictive measures by providers. This requirement does not apply to Family Care COs. CIS will review and evaluate the efficacy of the use of restraints in emergency situations and consider the need for an individualized, targeted review of the person. In-depth targeted reviews of these individuals will be a priority and will be done for any individual who has had three or more applications of an emergency restraint during the preceding year. If a targeted review is conducted with the waiver participant who resides in a setting regulated by DQA, the CIS will inform the appropriate DQA regional staff of the results of the review.

SECTION 5 PREPARING FOR & MAKING APPLICATION PROCESS AND FORMS

In all non-emergency situations, the county should have a system in place for addressing the perceived need for using restrictive measures. This section describes the required features of such a system.

CREATING A BEHAVIOR INTERVENTION OVERSIGHT COMMITTEE

If the provider or county/COs intend to pursue the development of a behavioral intervention plan that includes the use of restrictive measures, a local **behavior intervention oversight committee** must be organized at the county/MCO level. It is intended that these committees have the responsibility for reviewing all proposals for the use of restrictive measures for individuals and making the local approval decisions pursuant to the requirement for local approval contained in HFS 94.10.

In addition to its approval role, the committee should serve as a local technical assistance resource for county waiver agency/MCO and provider staff involved in proposing, approving or implementing the restrictive measure and other forms of behavior supports. It is assumed that county support and service coordinators/MCO care managers involved in assisting the provider develop the plan and application will be different staff than those on the behavior support and oversight committee.

County waiver agencies, and providers are encouraged to organize a broader based, multi-county or regional behavior support and oversight committees to perform these functions. The added experience gained by multi-county regional committees due to a higher volume of applications they will receive plus the ability to focus training on its members will likely improve effectiveness of any committee as well. Greater separation from the county waiver agency/MCO staff who may assist the provider in the application is a second advantage of a more regional committee.

The DLTC/BLTS and DQA have organized a **behavior intervention oversight committee** on the state level. This committee is and will continue to be composed of individuals with experience and expertise in behavior supports drawn from a variety of disciplines. The Committee will have a range of responsibilities with the key responsibility being the approval of "exceptional measures," if such measures are proposed by providers and approved by counties or MCOs. This committee will also support and guide the operation of the behavior support oversight system created by this communication. The committee will

These requirements will eventually be incorporated into Chapter 9 of the Waiver Manual.

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monitor the system; recommend new or modified policies or changes to the processes. The committee may also arrange new or revised training for the provider and county/MCO staff involved in the system.

TRAINING OF INVOLVED STAFF

Prior to implementing behavior guidelines, behavior support strategies or a behavior intervention plan, staff responsible for directly providing services and supports to a waiver participant for whom restrictive measures are contemplated must receive training on how to implement the restrictive measure(s) proposed. This includes training on how to inspect the device/equipment and on how to use the device or method properly. At this time, we are not requiring a specific training course for the direct care workers on restrictive measures. Staff and national trainers sponsored by various units in the department have been and will continue to provide training on the process described in these guidelines. As part of this process, we may request information from county agencies, COs or providers on the qualifications and training of the individuals conducting these processes to determine how adequately counties/COs are addressing this need.

One of the important considerations for gaining approval of any request for the use of restrictive measures involves the presence of adequately trained staff. Counties are encouraged to organize their training systems so they can respond to the need for timely, targeted training on issues associated with restrictive measures. This is a critical planning need since only staff specifically trained to implement the behavior intervention plan and on the use and application of the specific type of restraint, isolation or protective equipment may be approved for the use of these procedures in the specific case at hand.

Training should focus on the process, the range of techniques and the specific ones used for particular individuals. This provision applies to provider and county waiver agency/MCO staff. DHS representatives involved in restrictive measures approvals will have been trained on these subjects. Training of provider staff involved in the application of a restrictive measure for a specific individual must be documented in the participant's record. Training documentation of provider staff should be available for county waiver agency/MCO or state staff on request.

PREPARING THE APPLICATION FORM

There are preconditions and conditions to the department considering for review a behavior intervention plan and restrictive measures application. These same preconditions should be used by counties or COs in conducting their approval process as well. The specifics of these conditions and preconditions depend on the restrictive measure being contemplated. It is strongly suggested that the provider and placing agency staff who are preparing this application use those sections to guide the content of their submission. This section emphasizes the application process, not the specific content.

The preconditions that must be addressed before submitting an application under this process include:

- The use of restrictive measures must involve the general supervision of an interdisciplinary team;
- The application must be developed with the cooperation and approval of the team and must be complete and accurate;
- The application must be approved by the person's guardian, if any; and
- The application must be approved by the person's physician and this approval documented.

The approvals listed above must be obtained before the application is submitted to the county waiver agency/MCO and/or DLTC whether or not the review is being conducted sequentially or concurrently. The individual, if competent or the guardian must give written, informed consent approving the plan for use of these measures. Consent in this context concerns approval of the overall approach proposed to deal with planned emergencies described in the person's behavior intervention plan. Consent is not required in advance for every separate use of the specified intervention proposed.

The information required of the provider as part of obtaining informed consent from the person's guardian includes a description of the anticipated impact of the restrictive measure proposed and a description of why the measure was considered superior to all other alternatives to the selected measure that were

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considered. The provider should have a written protocol describing how this information will be conveyed to the participant and/or their guardian during the process of obtaining consent. The process should be adequate so the county waiver agency/MCO and Department can assess the extent to which the decision is informed by knowledge of what would happen if the consent was either granted or denied. If necessary, translation services for people with sensory disabilities or people who do not speak English should be made available to ensure that consent is truly informed.

The actual application package must be sent first to the county/CMO and, if approved, then to the department. County/MCO staff conducting the review and approval process must be different from those who may have assisted the provider in preparing the application. At the discretion of the department and typically, at the request of the county/MCO, there is an option for concurrent or simultaneous review by state and local staff. Such concurrent reviews are not expected to be done very frequently but are an option if unique factors of the particular individual's situation suggest the efficacy of such a review. This process will be explained in more detail in the next section. The application must include a copy of the behavior intervention plan, a completed application form using the correct OQA form and all documentation referenced in the form. The completed application form and accompanying documents must conform to all requirements in these guidelines. The form used for restrictive measures applications is:

- **Request for Use of Restraints, Isolation or Protective Equipment OQA-2607.**

If the plan calls for a medical restraint, the form used is:

- **Request for Use of Medical Restraints; OQA-2608.**

SECTION 6 APPROVAL PROCESS FOR RESTRICTIVE MEASURES

COUNTY/MCO APPROVAL

HFS 94.10 requires county/MCO approval of any request for the use of these measures in situations where the county/MCO is the placing agency. Counties and COs must therefore have an approval process in place for all providers and consumers affected and covered by this requirement. This includes consumers who are funded by, placed by and have their services coordinated and/or managed by a county/MCO but who physically reside in a different county. In these instances, responsibility for approval at the county/MCO level is with the county or MCO providing the funding and/or placement and coordination services. Each county or MCO may establish submission requirements for their own approval process independent of state submission requirements described later in this section if they wish but must, at minimum, use the same application form and criteria for approval contained in these guidelines. Counties may enhance their process so long as criteria for approval do not conflict with those contained in these guidelines.

The process begins with the provider and any county/MCO staff who assist completing the required form and assembling all of the material required by the state process as attachments to the form along with any information required by that county/MCO. The provider then submits the packet to the county/MCO for approval. The county/MCO uses its own approval process to review the application packet and either approves the proposal as submitted, approves the proposal with conditions, denies the proposal or returns it because it is not complete. All decisions including returns must be in writing. Denials must also include the reasons for denial. It is also recommended that the communication provide guidance on what can be done by the provider to remedy the defects in the returned or rejected application. Unless arrangements have been made for a concurrent review, **the county/MCO must approve the provider's application before an application can be submitted to the department.** The department will also not accept, comment on or make decisions about an application if a provider seeks departmental review prior to sharing with a county or MCO unless there is a prior agreement between the three parties (e.g. due to a complex or controversial proposal) to involve the department earlier. Provider requests for department input, advice or technical assistance from any unit in the department must also come through the county or MCO.

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In some instances, it may be wise for both the county/MCO and department review teams to act in concert and perform a concurrent review. The process discussed in these guidelines permits such a review if both the county/MCO and department agree that there is merit in conducting the review in this manner. Reasons why a concurrent review may be wise include but are not limited to number of different possible scenarios such as;

- The consumer may present particularly complex or extreme behaviors and the county/MCO may want departmental assistance during the review;
- The guardian may be particularly assertive in advocating a particular restrictive measure as the best strategy for behavior management and will likely resist any form of denial or limitation of a particular method. Concurrent review may save much time in dealing with appeals and may also be a better way of giving the guardian a message about the efficacy of the particular technique or strategy;
- In some instances, a small county/MCO or a county with recent staff turnover may feel like joint state/county or MCO participation in the process could serve a valuable training purpose.

There may be other, good reasons for using the concurrent review as well. We do not envision this being the typical way reviews and approvals will be conducted but want to be flexible enough to respond to requests where the reasons for such concurrent review seem sound. We want to emphasize though that **using this option will be at the sole discretion of the department** and may need to be limited if the workload associated with it is too great for the staff resources we have available. There is no formal way of requesting concurrent review- it is recommended that the provider and county discuss this with their assigned CIS/MCQS who will involve other state staff as necessary.

When a concurrent review is done, both the county/MCO and department will be expected to conduct the process as described in these guidelines simultaneously. This means both will consider the application, make decisions and issue letters of approval or denial with or without conditions. It is assumed that the results of a concurrent review will reflect a consensus of the groups participating. If their decisions differ including decisions about conditions of approval, the review will not be considered concurrent. This is to allow the consumer or provider to contest either decision with the entity with which they disagree. One change we see when such a concurrent review occurs and a consensus decision results involves the process of contesting county/MCO and department decisions. Since the department level of decision making will have already occurred, if the provider or consumer wishes to contest the decision, they will have immediate access to department level of the grievance process and will not have to start at the county/MCO level. This is discussed in more detail in Section 10 of these Guidelines.

Providers are strongly encouraged to work with representatives of county/MCO agencies early in the process to ensure that they are aware of the expectations of each county/MCO related to this process. Counties and COs are encouraged to be sensitive to the fact that many providers will be working with many different counties/COs. County and MCO differences will make the process more difficult and frustrating for providers so it is strongly suggested that counties/COs in close proximity, in the same regions or who use the same providers try to work with one another to create a consistent processes. Department staff will attempt to facilitate this to the extent possible particularly if requested to assist with such an effort.

The application the provider actually submits to the county/MCO should conform to the requirements and expectations in these guidelines plus any additional requirements added by the county/MCO. The department expects that the application will have been internally reviewed and approved by provider managers before it is submitted. It is recommended that the County/MCO approval process parallel the process used by the department. Counties/COs must have a written and easy to understand description of their review and decision making process for providers to reference. The process must describe all of the elements of the review including the identification and/or description of the established point of contact for applications, how and by whom at the local level (type of position, not necessarily the specific people) the application will be reviewed, how the results of the review will be communicated to the provider, the appeal process that will be made available to providers if a provider wishes to contest

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county/MCO decisions and how the county will transmit approved applications to the department for review (see following section for the department review process). Communication to providers of the county/MCO decision must be in writing, identify each measure reviewed separately, describe reasons for a denial, include any conditions of approval along with adequate descriptions of these conditions and be signed by someone in a management position, designated by the Director of the county agency/MCO. Denials must also offer information for both the provider and guardian or consumer to appeal these decisions. Information on the appeal is not necessary when application review is concurrent with the state review.

When the provider disagrees with the decision(s) of a county/MCO, the provider may appeal the decision. These appeals must be directed at the contact point identified by the county/MCO in their description of the process. Contact information must be provided and include phone, e-mail and address of the designated contact. It is recommended that the appeal process used by counties/COs parallel the process described in Section 10 of these guidelines.

DLTC LEVEL REVIEW AND APPROVAL

After completing the county/MCO approval process successfully, three copies of the application packet along with the county/MCO approval letter should be submitted to the DLTC Restrictive Measures Lead.. The DLTC Restrictive Measures Lead will review the application packet to determine if it is complete and will inform the county/MCO of anything needed to make the application complete and ready for submission for consideration by the DLTC review panel. Applications lacking county/MCO approval will be returned to the provider unless there has been an arrangement for concurrent review . When complete, the application should be submitted to the department in one of two of the following ways:

1. Electronically where all documents are included in the electronic submission (to DLTC Restrictive Measures Lead, Julie Shew: julie.shew@dhs.wisconsin.gov); or
2. Submit three (3) paper copies of the application and accompanying materials to DLTC Restrictive Measures Lead, Julie Shew: BLTS/PIR, P.O. Box 2285, Oshkosh, WI 54903-2285. The Restrictive Measures Lead will distribute copies of the application to all members of the review panel.

The review panel will be comprised of staff from DLTC and will be selected based on the county of residence of the individual for whom the application is being submitted. If the individual is living in a licensed facility, the proper licensing staff will also be part of the panel. For restrictive measures applications involving a child on any of the CLTS waivers, panel members may include staff from DCFS,

All applications are subject to screening by and review and approval by the DLTC Restrictive Measures Review Panel. The Panel will first determine if it conforms to the submission and policy requirements contained in these guidelines. Approval of all restrictive measures other than medical restraints will be based on all of the following:

- The completeness of the application;
- The degree to which the application reflects the requirements and expectations contained in these guidelines on the use of restrictive measures discussed below;
- The appropriateness of the restrictive measure as proposed as a response to the behavior; and
- Whether the restrictive measure is the least intrusive means of achieving the objectives of the behavioral intervention plan.

There are critical items that must be included in the application which are also requested on the prescribed form including:

- The behavior intervention plan that proposes the use of the restrictive measure must describe the criteria for releasing the individual from the restraint, isolation or protective equipment.

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- The plan must specify the maximum duration of continuous application of the measure within the timeframe ordered by the physician.

Decisions on the use of a medical restraint will be based on:

- Whether or not the proposed restraint is the least restrictive effective way to accomplish the objectives; and
- The ability of the restraint to protect the health, safety and welfare of the individual.

The DLTC Restrictive Measures Review Panel will inform applicants of decisions within 15 working days of the receipt of the application unless other arrangements are made. Complex cases may take longer. Counties should account for this time when planning especially for people with high and complex needs relocating from institutions.

The use of a restraint without approval is not permitted except for emergencies as described above. Use without approval is a violation of a person's rights and will likely result in a disallowance for costs incurred while the unapproved restraint was in use under Medicaid Waivers. DQA may take enforcement actions as well. Except emergencies as discussed, approval of the planned use of restrictive measures by the DLTC Restrictive Measures Review Panel must be obtained **prior to** implementation. In complex cases, the panel may request and/or require expert consultation regarding specific treatment issues or to resolve concerns as part of this process. Use of special consultants may delay the approval.

The DLTC Restrictive Measures Review Panel's decision may be: (1) unconditional approval; (2) approval with conditions; or (3) denial. Sometimes, no decision will be made due to insufficient information provided with the application. All review decisions will be conveyed in writing. Approval or denial letters must be sent to the applicant (the placing agency or county/MCO), the providers who will implement the use of the restrictive measures approved, and to the individual and/or his or her guardian, if any. Denial letters will convey specific reasons for denial and will describe the provider and placing agency's appeal rights (process is discussed/described below). We anticipate that the Review Panel will have verbally communicated concerns as early as they are identified and work with the county/MCO and/or provider to identify more appropriate interventions. **Except for Medical restraints, all approvals of restrictive measures must have an expiration date.** Medical restraints may be approved one time and not require re-approval. Expiration dates will be individually determined. Disagreements with any action, decision or condition of the department are subject to appeal via the process discussed later in these Guidelines. We strongly favor using informal dispute resolution to the extent possible.

CRITERIA FOR APPROVAL OF THE USE OF RESTRICTIVE MEASURES

Assuming a complete application and application development process, adherence to all of the requirements in these guidelines and an approvable behavior intervention plan, the following are the criteria that must/will be used by counties/COs and the DLTC Restrictive Measures Review Panel in deciding on approval of all restrictive measures:

1. The individual's behavior presents an immediate danger to self or other persons (i.e., not property damage, yelling, throwing objects, verbal threats, etc.).
2. The restrictive measure proposed is the least restrictive approach available to achieve an acceptable level of safety for the individual. This applies to each measure proposed and to the interactive effects, if any, of all such measures.
3. There is documentation that less restrictive interventions have been tried and were not effective.
4. The measure is adequately supported by the training provided to all staff involved in the use or monitoring of the measure.
5. The supervision, monitoring plan and back-up arrangements are adequate to ensure effective responses to unanticipated reactions to the measure that might arise.

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6. With the use of the measure, the health, safety, welfare, dignity and other rights of the individual are adequately ensured.
7. The application contains a reasonable plan for reducing and/or eliminating the need for using the measure in a reasonable length of time.
8. The restrictive measure is used only for the duration necessary to ensure the individual's safety or that of others (i.e., staff end the use of the restrictive measure as soon as the individual appears to be calm and not a danger to self or others).
9. The restrictive measures are not used in lieu of adequate staffing.

When, as a result of the state-level review of the application for a restrictive measure, it is determined that equipment and adaptive devices do not function as restraints, providers must still assure the health and safety of the subject of the application by making sure the device or equipment is functioning optimally and as intended. The following requirements must be followed (pursuant to HFS 88 or HFS 83 licensing requirements and the need to assure waiver participant health and safety and least restrictive treatment.):

1. The provider shall determine that device or equipment is safe, the least restrictive available alternative and most appropriate for the individual and the need identified. It is strongly recommended that this be accomplished by consulting with an appropriate professional with expertise in the use of the device and the condition it addresses.
2. The provider shall develop a written plan for use and monitoring of the device and/or equipment.
3. Ensure and document that everyone who uses the device or equipment is trained in the application, maintenance and ongoing monitoring of the device/equipment.
4. Reassessment shall occur at least annually to determine if the device or equipment remains appropriate and necessary.

APPROVAL PROCESS FOR EXCEPTIONAL MEASURES

The content of the application for any item that is defined as an “exceptional measure” is different. Exceptional measures are called exceptional because their use should be rare due to their high level of intrusiveness. **The department strongly discourages the use of exceptional measures and intends very consciously to hold applicants to an extremely high standard if such measures are proposed.** The department expects the need for and use of such measures to be quite unusual. It has been our experience that in many situations other, less intrusive methods are often equally effective. We encourage your consideration of these alternatives. When applications cover exceptional measures, department staff may suggest less restrictive alternatives.

To be considered for approval, exceptional measures must first be:

- Consented to by the participant and his/her guardian, if any;
- Applied for by the provider and approved by the provider's decision making process; and
- Approved by the placing agency and their Behavior Support and Oversight Committee.

Applications for the use of exceptional measures require an additional step in the approval process:

- Approval by the **Department's Behavior Support and Oversight Committee.**

Plans containing exceptional measures will be reviewed by additional panel members, referred to as the Behavior Intervention Oversight Committee. The purpose of their review is add an additional objective review by panel members with knowledge and experience in the areas of behavioral intervention and use

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of restrictive measures. Members of the Behavior Intervention Oversight Committee will join the DLTC Restrictive Measures Review Panel for the review of plans containing exceptional measures.

The Department's Behavior Support and Oversight Committee is jointly appointed by the Administrators who supervise the licensing function for community facilities and Medicaid Waivers or their designees. It is composed of experts in behavioral interventions and the use of restrictive measures.

The use of exception measures without appropriate approval from the department will result in sanctions for any offending provider or county/MCO. All approvals shall be time limited with the duration determined by the DLTC Restrictive Measures Review Panel and Behavior Intervention Oversight Committee.

Additional information is required when an "exceptional measure" is proposed. As with all restrictive measures, the submission must include the person's behavior intervention plan. This plan must incorporate the requested exceptional measure. In the case of an exceptional measure however, the plan must be prepared with the assistance of a "qualified behavioral specialist" (see definition in appendix).

The following additional information related to the exceptional measure must be included in the proposed behavior intervention plan and provided with the other required documentation for the measure to be considered:

- A detailed description of the measure requested;
- Reason for the choice of the particular measure;
- List of and explanation why other, less restrictive measures were rejected;
- Description of and data concerning previous interventions attempted and their result;
- Plan and timetable for how and when the need for the measure will be eliminated; and
- Name and qualifications of the behavioral specialist assisting in the preparation of the request.

The expanded DLTC Restrictive Measures Review Panel will review the submission and render a decision on the proposal. Approvals for plans containing exceptional measures may have added conditions regarding the monitoring, documentation and/or review of the approved plan due to the higher level of risk and intrusiveness of such measures.

The use of bed enclosures is an exceptional measure. One brand of bed enclosure has been the subject of product recalls by the Federal Food and Drug Administration. Due to safety concerns and a number of deaths of people using this product nationwide, the department will not approve the use of bed enclosures made by this company. We refer you to a department policy communication on this subject:

http://dhfs.wisconsin.gov/dsl_info/NumberedMemos/DDES/CY_2005/NMemo2005-08.htm

TEMPORARY SUSPENSION OR PERMANENT REVOCATION OF APPROVAL

County/MCO or departmental approval of applications for restrictive measures can be unconditional or involve conditions. Approved applications are also subject to suspension of use or revocation of approval by either the county/MCO or by department staff involved in oversight of the provider or approval of the measure (or both) if there is cause for such action. Cause for such an action may include a finding that there has been a substantial deviation in some aspect of the plan for using the measure or failure to adequately meet the conditions of approval. Approval may also be amended by any approval authority by the imposition of new/additional conditions if the need for this is determined. New county/MCO imposed conditions should be immediately submitted to the department and are subject to department review and approval.

Suspensions are intended to be temporary pending further fact finding and review. Suspensions should be considered an interim step toward either restoration of the approval or to revocation. They can be removed when a problem situation is corrected. Suspensions can be imposed **on site** by a county or

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MCO official or by a CIS/MCQS or DQA staff person without written notification but such on-site suspensions delivered verbally must be followed-up with a written notification confirming the suspension, explaining the reasons for the suspension and describing what the provider needs to do to remove the suspension in a timely fashion. The written follow up communication must be sent to the director of the provider agency with copies to the other approval bodies within five work days of the verbal order suspending approval by the person or agency responsible for the suspension even if the actual suspension has been lifted before the notification is delivered. **On-site suspensions take effect immediately. Continued use of the measure will be considered a violation of the person's rights and of the requirement to obtain approval.** The written notification and associated provider notes must be maintained in the participant's file. Appeals of suspensions will not be accepted; if the suspension is not lifted, the provider will have to resubmit an application in order to use the measure.

After the suspension, the department or county/MCO or both will conduct fact finding to determine if the reason(s) for the suspension has merit. If the results of the fact finding indicate that the restrictive measure is not effective, is being misused or is having unanticipated, harmful effects, the Department's approval of the use of the measure will be revoked. Fact finding for a suspension or revocation must be complete within 30 days of the initial notice of suspension or revocation.

Revocation of the approval of the measure must be communicated in writing to the provider and placing agency if the department is revoking the approval, with copies sent to the person and the person's guardian, if any. Notices should provide the reason(s) for the revocation and include appeal rights for all parties involved who may be complainants. The provider agency is barred from using the method when approval has been suspended or revoked. If approval is revoked, the process for obtaining approval of that or any alternative measure must start from the beginning if this or any other restrictive measures are still contemplated.

SECTION 7 USE & CONTINUOUS MONITORING OF RESTRICTIVE MEASURES

The approval process for restrictive measures should be seen as a continuous process that does not end with the approval decision of the county/MCO and/or department. While any approval is accomplished at a point in time, the use of any approved restrictive measure must be continuously monitored by the provider and placing agency according to a person-specific plan that must accompany each application. Approval of the use of the measure will always include approval of the monitoring plan that applies to the measure either outright or with associated conditions of approval. . The monitoring plan spans the time period when the application is approved through the time the measure is no longer used. **Implementation of the monitoring plan in the application as approved for all restrictive measures will always be a condition of approval.**

The plan should also provide for notification of the provider agency's director or designee by direct care staff involved each episode restraint, isolation or protective equipment is used. Notification can be done any number of ways including, but not limited to: weekly/monthly reports, phone calls or e-mails, etc.

The monitoring plan must require that, prior to using a restraint or protective equipment, staff in charge of using the device(s) inspect the device to determine that it is clean, in good repair and free from tears or protrusions that may cause injury. This inspection and associated requirements must be written into the plan and documented in the provider's record when it occurs. Documentation must include the date of the inspection, findings and the identity of the person doing the inspection. A schedule of inspection at regular intervals (defined by time and/ or use) should also be set up prior to non emergency uses of such measures. When the device is in use, it should also be inspected to make sure it is working properly and not causing the person using the device any injury.

A person/participant placed in restraint, isolation or protective equipment must be monitored for signs and symptoms of adverse effects on his or her health and well being at intervals specified in the person's behavioral intervention plan but not less than once every 30 minutes. The selection of the frequency of monitoring depends on the individual and the measure used. Generally, the use of seclusion requires continuous, eyes on monitoring by direct or video observation. Other measures may need a less intense form of monitoring. Providers are urged to err on the side of caution. If observation is not continuous, the

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time and name of the staff person making the observation for each separate observation must be documented in the participant's file kept by the provider. Monitoring should be done by the designated staff trained in the use of the device or method according to the schedule contained in the approved application. The general purpose of monitoring is to verify that the restrictive measure is being used according to the plan. Specifically:

1. That staff use the restraint, isolation or protective equipment or medical restraint properly;
2. That all staff using the measure are adequately trained initially in the measure's proper use and safeguards and receive on going training as needed and described in the application;
3. That the measure is/has been used only for periods of time approved and necessary;
4. That the measure is being used for only the intended purpose and is **NOT** being used for discipline, staff convenience or for reasons not anticipated or described in the application and plan;
5. That consumers are continuously protected from harm from others present including other consumers while the measure is being used;
6. That the specific times the measure is used are properly and accurately recorded in the consumer's provider record. Notations in the file must include the dates, times, the identity of the staff involved in each use of the measure and the signature of the staff recording the information. The person using the measure should be responsible for providing this documentation;
7. That any adjustments to the measure made by the provider have been done and work properly. The nature of any adjustment must be recorded in the file according to the requirement in this section;
8. That any adverse affects on and complaints from the consumer are addressed in a timely and effective way;
9. That the consumer's status is being continuously reviewed at the frequency required in the person's individualized behavior intervention plan. A person placed in restraint, isolation or protective equipment must be monitored continuously for signs and symptoms of adverse effects on his or her health and well being according to the monitoring plan developed for the individual. **Continuous monitoring for the person must be specified in the person's monitoring plan and ranges from direct, eyes on observation of the participant at all times to observations at a lesser frequency or intensity.** The nature of observation must be adequately described in the plan and include descriptions of physical proximity, hearing range and related factor so the review team(s) can gain a full and accurate understanding of how monitoring will be conducted. The use of seclusion requires continuous, eyes on monitoring be included in the plan. ;
10. That in the event that there are signs or symptoms of adverse effects on the person's health resulting from the use of restraint, isolation or protective equipment, supervisory and/or nursing or medical personnel are to be promptly notified as specified in the plan; (**Note: If adverse effects rise to the level of being a threat to a person's health or well being, the person must be immediately released from restraint, isolation or protective equipment and emergency services involved as needed.)**
11. That the plan references the criteria in the behavior intervention plan concerning release from the measure. The person must be released from the measure when the criteria identified in the behavior plan is met; or

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- If the criteria for releasing the person from the **mechanical restraint, isolation or protective equipment** have **not** been met within 60 minutes of the first use of the restraint; or
- The use of an approved **manual restraint** has lasted 15 continuous minutes. (see glossary for definitions);
- The individual's behavior has not been dangerous and the individual has been calm for five (5) full minutes. Maintaining the measure after five minutes is considered an exceptional measure and requires the approval of the Behavior Oversight Committee; or
- There are any threats to his or her health or well being from the use of the measure.

The release criteria described in the monitoring plan must contain a description of the specific dangerous/challenging behavior(s) that must stop before the consumer is released. When the behavior stops, the release from the restraint or isolation must occur within five minutes of calm behavior. **After a release**, the person must be offered the opportunity to move about and exercise. If appropriate to the situation, the person should also be given the opportunity to have food and drink and to attend to other personal needs. The staff person monitoring the use should determine that there are no signs or symptoms of adverse effects resulting from the protective equipment. If the behavior that led to the use of restraint, isolation or protective equipment recurs after the initial release, the restrictive measure may be used again.

12. That any/all conditions of approval not specified above are being met;
13. For medical restraints, that the provider agency has obtained updated orders within the past calendar year; and
14. For medical restraints, an assessment to determine if the medical restraint remains appropriate and the least restrictive way to accomplish what is intended.

The person's condition as seen during each observation must be documented for the entire time that he or she is restrained. Documentation must be maintained in the client's record.

To be approved, the monitoring plan component of restrictive measures applications must contain provisions concerning provider reporting on the use of the measure to the county/MCO and to the department. The content and frequency of these reports will be determined on an individual basis. The county's/CO's and department's approval must each specify the people to whom this report must be submitted and the frequency which the provider must submit the report. This report must contain the results observed during the monitoring of the use of the measure(s) and the status of the individual. These reports will be individualized with some standard items for reporting (listed below). Specific content may be covered by a condition of approval of the measure to be used for the consumer.

This monitoring plan report must include written descriptions of the results of the use of the measure observed during the monitoring process. Contents must, at minimum include:

- A description of the **condition of any equipment** used as observed during the inspection done to ensure the equipment is in good working order;
- Written evidence verifying that only **trained staff** implemented the behavior intervention plan;
- Descriptions by the trained direct support staff about the **person's response** to the intervention;
- Descriptions of the specific episode of use of the measure including an **assessment of the effectiveness** of the measure being used for the behavior in question in light of the plan;
- Notations concerning the possible need for any **modifications to the behavior intervention plan**; and
- Progress on the plan to **reduce/eliminate the use of the restrictive measure**.

The report must be maintained in both the provider's and placing agency's participant file.

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Providers should also develop a plan for monitoring medical restraints. This plan should include provisions for training staff in the use, maintenance and the ongoing monitoring of the device. The plan should be reassessed at least annually or more often, if warranted, to determine the appropriateness and the need for the continued use of the device.

TERMINATING THE USE OF THE RESTRICTIVE MEASURE

If at any time during the use of the measure, any of the parties involved in applying for or approving the use of the measure, including the provider, placing agency, or any involved unit in the department determine that the grounds for approval are no longer present, the measure is counter productive or may be having adverse effects on the person's health, safety or welfare, may stop or order the discontinuation of the use of the measure. It is anticipated that such a drastic change will typically be accompanied by alternative strategies for addressing the dangerous/challenging behavior and that ample time will be permitted to implement these new measures.

If the provider determines that the behavior intervention plan and the use of the restrictive measure are to be discontinued, the agency should terminate the use of the measure. The agency need not wait for approval of any of the approval authorities unless advanced notification of the county or placing agency was an explicit condition of approval. Following the discontinuance of the measure, **within three calendar days**, the provider must FAX or submit a written notification to the designated staff in the county/MCO, the designated DQA contact for the regulated facility and to the DLTC Restrictive Measures Lead indicating that the use of the measure has been terminated and a discussion of the reasons why this was done.

SECTION 8 REQUIREMENTS AND CONSIDERATIONS FOR USE OF SPECIFIC RESTRICTIVE MEASURES

The following are specific requirements and considerations for the use of specific restrictive measures covered by these guidelines.

- **SECLUSION:** Except as provided in this memo, the use of seclusion is prohibited. Seclusion accomplished through the use of a pressure locking mechanism that requires the constant application of some type of pressure or control to maintain the locked condition is permitted so long as it received approval as an exceptional measure via the approval process for such measures discussed in previous sections. **Locking someone in any room where the door would/could stay locked is not permitted under any circumstance.** Pursuant to S. 51.61 (1) (l) 1, if the person's behavior intervention plan indicates that the use of seclusion by the use of an approved locking mechanism³ is the least intrusive method and appears to be the most likely effective intervention and this measure is approved by the county/MCO and department, the provider may use this method. The provider is required to evaluate the continued efficacy of the intervention plan and the use of the measure at intervals of not less than once every month after each use or according to a schedule required by any or all of the approval entities.
- **MECHANICAL SUPPORTS:** Mechanical supports are designed and typically used under the supervision of a qualified professional in accordance with principles of good body mechanics, concern for circulation and allowance for change in position.
- **MECHANICAL RESTRAINTS:** Mechanical restraint must not impair or inhibit visual or auditory capabilities or prevent or impair speech or other communication modalities. If the criteria for releasing the person from a mechanical restraint or isolation have not been met within 60 minutes from the time the restraint was first applied, the person must be released from restraint. After release, the person must be offered the opportunity to move about and exercise. If appropriate to the situation, the person should also be given the opportunity to have food and drink and to attend to his or her other personal needs. If the restraint is being used as part of an approved

³ *Approved locking mechanisms include only those requiring the constant application of pressure or control.*

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plan, reapplication of the measure is permitted if the dangerous/challenging behavior reoccurs following a release.

- **MEDICAL RESTRAINTS:** Provider agencies must assess any mechanical support or medical procedure that is being used to determine if it is also acting as a medical restraint. These devices can become restraints if the way they are used prevents or limits functional access by the individual to parts of their body or limits functional movements or mobility. If the provider determines that the device is acting as a medical restraint, the provisions of this section of these guidelines apply.

When a device is acting as a medical restraint, a service plan addressing how to respond to the existing medical condition is required. The plan must be accompanied by informed consent from the individual or guardian on a signed form. A physician's order is also required for all medical restraints. These orders must be renewed at least annually and must include the physician's rationale for the use of the medical restraint.

There must be ongoing assessment of the continued need for use of medical restraints. Assessments should address whether or not less restrictive measures are available as an alternative to the device being used. If the assessment reveals the device is acting as a medical restraint, the provider should first begin to organize their application for departmental approval. The provider must determine if the device is safe, is the least restrictive option for accomplishing the objectives for the use of the device and is the most appropriate option. It is recommended that providers consult with an appropriate medical professional during the process of making this determination.

If the device or procedure is acting as a form of behavioral control unrelated to a medical procedure or condition, the process covering restraints, isolation and protective equipment applies. If the device or procedure is acting as a form of behavioral control **and** is related to a medical procedure or condition, the process in this section for only medical restraints applies.

- **MEDICAL PROCEDURE RESTRAINT:** Medical procedure restraints may be used only when necessary to accomplish a specific diagnostic or therapeutic procedure ordered by a physician, a physician's assistant or a dentist. These restraints also must first be approved by the consumer's guardian, if any, prior to their use. Medical procedure restraints must:
 1. Be of the absolute minimum duration to accomplish procedure, but never longer than two hours;
 2. Be used only after attempting to secure the individual's cooperation by less restrictive means;
 3. Be appropriate to the situation;
 4. Comply with provider procedures;
 5. Be used only when there is a up to date physician's order renewed at least annually; and
 6. Be used only when an ongoing assessment is accomplished that evaluates the efficacy of positive supportive strategies to facilitate the medical procedure.

These limitations do not apply if employees of the medical provider perform the restraint procedure.

- **RESTRAINTS ALLOWING HEALING:** Restraints for health-related conditions may be used to allow healing of an injury. Examples of circumstances requiring healing may include lacerations, fractures, post surgical wounds, skin ulcers, and infections. Informed consent from the individual and his or her guardian, if any is required when restraints are used in excess of 10 days. Further, physician orders for these restraints must be time limited and include the rationale for use.
- **RESTRAINTS FOR PROTECTION:** Restraints may be used for protection from injury in the presence of a chronic health condition. Requirements for use of restraints for protection include:

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1. Identification of risks verses quality of life;
2. Alternative safety measures considered;
3. Underlying health condition must be addressed in the care plan; and
4. Physicians order must be renewed annually.

SECTION 9 RENEWING APPLICATIONS FOR RESTRICTIVE MEASURES

Approval of any non-medical restrictive measure covered by these guidelines will always be time limited and have an expiration date. If a plan involving the use of the measure is approved and the need for the use of the measure continues, the provider agency must submit a renewal application.

The renewal application must conform to the same submission requirements as the original application along with the information collected during the previous approval period. Renewals should not just be an updated copy of the original application but must reflect the experience of using the measure, the observations made during monitoring, include an updated assessment, contain a discussion about the progress being made toward eliminating the use of the measure and an update of all other aspects of the original application or an indication that they do not need updating. In addition, the renewal application must also include reports required from the monitoring process on the effects of the measure as described above. This does not mean everything needs to be rewritten; certainly if something has not changed, we don't seek to have the provider say the same things with different ways to meet the detail of these expectations. The standard we seek here is for the provider to give the measure a major reexamination that either reaffirms the proposal or modifies it on the basis of progress and experience. The provider's application must be submitted 30 days prior to the expiration date and sent to the DLTC Restrictive Measures Lead. Renewal of approval for a restrictive measure will use the same process as the original application with respect to required notifications and timelines.

It is recommended that applications be submitted to the placing agency according to a schedule established by the placing agency so the application can be received by the department no less than 30 days prior to the expiration date of the department's approval. If the expiration date for the approved measure approaches and the provider needs more time to prepare the application or the county/MCO needs more time to review it, the previous approval can be extended for a limited amount of time. The department is willing to work with providers and counties/MCOs especially if the nature of the delay relates to the possibility of reducing the restrictiveness of the measure. We will also respond to heavy workload pressures to the extent we can but must insist that restrictive measure application and approval be given priority by providers and placing agencies. When the renewal is submitted, the appropriate DLTC Restrictive Measures Review Panel members will review the renewal application and determine the continued appropriateness of the behavior intervention plans and will issue a new time-limited approval, if warranted.

SECTION 10 CONTESTING DEPARTMENT AND COUNTY/ CMO DECISIONS

All actions and decisions made by counties/COs and by the department with respect to restrictive measures are subject to appeal if there is disagreement with the decision. Appeals can come from consumers and/or their guardians, from providers and from counties/COs if these agencies disagree with department decisions.

APPEALS BY CONSUMERS

Consumers have the "right" to appeal decisions related to restrictive measures. Since the county's/ CO's authority to approve or reject proposals for restrictive measures when proposed for community settings derives from Section 51.61 Wi Stats. and HFS 94.10 of the administrative code, the existing County grievance process applies to all consumer-related grievances related to the use or denial of use of restrictive measures. Each county/MCO has already developed a written description of their grievance process and protocols for explaining consumer rights and how the process works to program participants and their guardians, if any, when the consumer or guardian wish to contest/appeal decisions of the county/MCO related to any right covered by S. 51.61 and HFS 94 including the right to be free from restrictive measures. These Guidelines rely on that process for hearing and resolving consumer

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complaints at all levels. This process is detailed in that rule and can be found at the following link: <http://dhfs.wisconsin.gov/clientrights/index.htm>

Since consumer/guardian approval is required in order for a provider to be able to use any restrictive measure, consumer grievances will typically involve a consumer/guardian preference for using a particular kind of restrictive measure which was not approved or which was approved with conditions about which the consumer or guardian disagree. If the consumer or guardian does not approve the measure, it can't be used. Depending on the specifics of the decisions made or conditions imposed, appeals by consumers may be directed to either the county/MCO or the department. When a concurrent review was done, appeals go directly to the department.

PROVIDER APPEALS OF COUNTY/MCO AND DEPARTMENT DECISIONS

Provider agencies also have the opportunity to appeal decisions of the County/MCO and department. Since HFS 94 conveys rights to consumers and not providers, the specific process available to consumers is not available to providers for this purpose. Still, we think having such a process is important for good communications between the levels of our system. We also think that complaint situations can be educational for all concerned including the department. We have learned much by seeing situations in the community brought to our attention during disputes with providers or counties.

Appeals of county/MCO and department decisions must assume that the consumer and their guardian, if any, agree with the provider and not with the decision of the one or all approval authorities and, that the decision of one or all of the approval authorities needs to be modified or overturned entirely. It is recommended that the placing agency's decisions related to appeals involving restrictive measures parallel the process used for consumers under HFS 94 using the same time lines and steps. The department requires that the appeal be heard by someone with appropriate expertise who was not involved in the original decision. This person or panel should be designated by the program director of the county/MCO. The department will also permit the same kind of informal dispute resolution described in HFS 94 be used permitting the process to be stopped at any point with the mutual agreement of both parties. The department also requires that the final decision on the appeal at the county/MCO level be made by or approved by the agency's Program Director.

If, in response to the appeal, the placing agency's decision is to reject the use of the measure, that decision is final. Since HFS 94.10 requires county/MCO approval for a restrictive measure to be used, there is no reason for there to be an appeal of the placing agency's decision to the department. The department cannot approve a restrictive measure without concurrent county/MCO approval. If the consumer in question though, is a person who uses his or her own resources and is not involved with a placing agency, the county/MCO has no role in the situation. In this case, no appeal to the county/MCO is necessary.

PROVIDER AND COUNTY/MCO APPEALS OF DEPARTMENT DECISIONS

In addition to consumer grievances discussed above, department decisions can be appealed by either providers or by the county or MCO. Since, apart from concurrent review, to even get to the department level of consideration, it is assumed that in these cases, the provider and county/MCO are in agreement about the need for the measure though there may be differences in conditions of approval. If both agree a restrictive measure should be used and the department either rejects or imposes unacceptable conditions on approval, the provider and county/MCO may appeal department decisions. In cases where there is no county/MCO placing agency, appeals go directly to the department.

The process described here is intended to cover each of these situations. It is consciously modeled after the dispute resolution process discussed in HFS 94.40-54 though is administratively separate from that process. If those agencies disagree with a decision of the department to reject or condition an application for a restrictive measure, they may appeal by directing a letter to the Department's Client Rights Office at the following address:

Client Rights Office

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PO Box 7851
1 W. Wilson St., Room 850
Madison, WI 53703-7851

If the provider agency and placing agency, acting jointly, appeal decisions to deny or revoke approval or apply any of the conditions of approval, they must submit their appeal in writing. The request must conform to the time lines for appeals contained in the HFS 94.40-54 process. The request should include the reason(s) why the provider agency and/or county/MCO disagrees with the decision of the review panel and state the nature of the relief they seek.

The HFS 94 dispute resolution system favors an informal resolution process. This informal process is described in HFS 94.40 (4). We strongly recommend that, after submitting the formal request for an appeal all parties avail themselves of this informal process before using the formal process. If the appeal goes to the formal process, the designated staff in the department's Client Rights Office will review the facts presented in the appeal, hear the rationale from the department staff involved and will render a timely, written decision to the appellant(s) within the time periods established for departmental action in HFS 94. The decision of Client Rights Office Staff is final. Appeals concerning subjects covered in this memo are not subject to Fair Hearing or contested case hearing under Ch. 227.

SECTION 11 SUMMARY OF DOCUMENTATION REQUIREMENTS

The person's provider record or file must include the following information for each use of restrictive measures including restraints, isolation or protective equipment:

1. The support and service coordinator/care manager on the team should document the content of technical assistance and outside consultations conducted including the content of discussions and decisions resulting from the assistance in the participant's record. The documentation should identify the professional who provided the assistance, contain a description of their credentials and the results of assessments or recommendations made.
2. The support/service coordinator/care manager's summary of the interdisciplinary team's discussion of assessment results and decisions on supports.
3. The team's description of the frequency, intensity and duration of any dangerous, challenging behavior(s) that appear along with any data summaries or graphs prepared for this purpose. (see creating supportive environments in Section 3 for details of what needs to be documents)
4. The behavior intervention plan must identify and discuss each type of restrictive measure selected for use, why that measure was selected, how it relates to the person's challenging behavior and identify all behavior specialists involved in the use of the measure. The plan must also identify and describe ways in which the use of any of measure proposed can be reduced or eliminated over time.
5. Providers must have a written policy on how they will deal with emergency situations when people they serve exhibit dangerous /challenging behavior that was unanticipated. The policy should be accessible to all direct service staff.
6. The required notification of the agency's director or his or her designee to obtain authorization for the continued emergency use of the measure chosen must be documented including the date, time and method of all attempts at notification of the director.
7. The required release criteria must be documented. Documentation must include a description of the specific targeted behavior(s) that must cease and any other conditions that must be present before the person is released.

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8. Documentation is required for all unplanned, emergency uses of restrictive measures in the form of critical incident report using the **DDES 2558 County Critical Incident Report** or its parallel in MCOs. A copy of this report should be included in the participant's file.
9. Training of provider staff involved in the application of a restrictive measure for a specific individual must be documented in that participant's file or record and must be available upon request of either county or state staff.
10. Counties/COs must have a written description of their review and decision making process for providers to reference describing all of the elements of the review including the people or positions who serve as points of contact. Please refer to the section on the application process for details of documentation requirements.
11. Critical items that must be included in the application requested on the prescribed DQA form are the behavior intervention plan that proposes the use of the measures, the criteria for releasing the individual from the measure equipment and the maximum duration of continuous application of the measure.
12. The letter approving the use of the restrictive measure and any letters denying the use of the measure must be kept in the person's file.
13. Additional information related to the exceptional measure including:
 - A detailed description of the measure requested;
 - Reason for the use of the measure;
 - Rationale why other less restrictive measures were rejected;
 - Description of previous interventions attempted;
 - Plan and timetable for how and when the need for the measure will be eliminated; and
 - Name and qualifications of behavioral specialist who assisted preparing the request.
14. The written notification and provider notes associated with any suspension or revocation of the approval of a measure must be maintained in the participant's file.
15. The monitoring plan for the use of the device including the documentation of the inspection of the device. Documentation must include the date of the inspection, findings and the identity of the person doing the inspection.
16. When using the device, the following must be documented:
 - Date, time and location the measure was used;
 - Reason for using the measure;
 - If the use was for an emergency, any less restrictive measure used, attempted or considered first;
 - Person authorizing the measure each time it is/was used and/or required authorization;
 - Time the measure was initiated and time use ceased;
 - A description of the person's condition every fifteen minutes while restrained or isolated or every thirty minutes if protective equipment was used;
 - A description of any adjustments to the measure made by the provider;
 - Name(s) of staff implementing the procedure and their signature on the notes;
 - Name of the staff continuously observing the procedure;
 - Name of person providing the required documentation; and
 - Post release status/actions.
17. The individualized protocol for provider reporting on the use of the measure to the county/MCO and to the department including a description of the content and frequency of these reports and a list of who will receive these reports.

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18. A written description of the county agency's or CO's appeal process for providers when the provider believes that proposed restrictive measure(s) have been rejected or inappropriately conditioned must be available.

ATTACHMENT 1 GLOSSARY

1. **Behavior intervention oversight committee:** A “behavior intervention oversight committee” means a group of people appointed by the Program Director of a county agency or MCO or, by the Administrator of the Division of Long Term Care responsible for the review and approval of any behavior intervention plan that propose the use of a restrictive measure. Not less than two of the members of a county or MCO Human Rights Committees must be qualified human service professionals who have no affiliation with the entity that appointed them. These people may not act on proposals from any provider with which they have an affiliation.
2. **Behavior Intervention Plan:** A “behavior intervention plan” is a written document intended to assist the individual in building positive/desired behaviors to replace or reduce the individual’s challenging behavior.
3. **Behavior Specialist or Qualified Behavior Specialist:** A “behavior specialist” or “qualified behavior specialist” is a person who:
 - has worked in the DD field for 5 years or more two of which were at a professional level in a position that addressed challenging behavior A person who worked in a related field (e.g. mental health) may be approved as a qualified behavior specialist;
 - has an appropriate BA/BS level degree, masters degree, other advanced degree above the level of masters or equivalent experience in a field related to humans services such as psychology, social work, behavioral disabilities or rehabilitation psychology;
 - has received training in behavioral psychology, positive behavior support, behavioral approaches/learning styles and other relevant areas; and
4. **Behavior Supports:** “Behavior supports” means the components of a person’s environment that are intended to encourage behaviors that replace challenging/ dangerous behavior to help the individual attain his or her desired quality of life. Behavior supports may include but are not limited to teaching the person to better communicate with others, expanding the opportunities for developing relationships, improving the quality of living environments, or clinical interventions such as a Behavior Support Plan.
5. **Challenging or Dangerous Behavior.** “Challenging behavior” and “dangerous behavior” both mean behavior that places the person or any other person at imminent, significant risk of physical injury. Presence of challenging or dangerous behavior is the threshold for consideration of the use of any proposed restrictive measure.
6. **Emergency:** “Emergency” means an unanticipated situation in which a person suddenly engages in dangerous behavior that places the person or others at imminent, significant risk of physical injury, or exhibits signs known to be precursors of such behavior for that individual. Examples of such behavior includes but is not limited to biting, striking or pushing another person, harming his or her own body by scratching, using objects to inflict injury or other such behaviors.
7. **Exceptional Measures:** “Exceptional measures” are specific forms of restraint that, due to their level of intrusiveness, present a potentially higher level of risk to the person and to those implementing the procedure; exceptional measures include but are not limited to the following:
 - A. Physically forcing the individual to the ground or other surface.
 - B. Physically forcing an individual to lay in a horizontal position.
 - C. Restraint vests, jacket, camisoles used to restrain, body wraps;
 - D. Devices that are used to tie or secure a wrist or ankle to prevent movement;

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- E. Restraint chairs or chairs with devices that prevent movement; may include wheel chairs if they are used to restrain;
 - F. Removal of a person's mobility aids such as a wheelchair, walker or cane;
 - G. Bed enclosures;
 - H. Seclusion by the use of closed rooms locked with a mechanism that requires the constant application of some type of pressure or control to maintain the locked condition. (Note: all other forms of seclusion are prohibited.)
 - I. Criteria for the release of someone from a restrictive measure that calls for maintaining the restraint for more than five (5) minutes after the person is calm;
 - J. Any practice that is more restrictive than these listed here.
 - K. The waiving or modification of any process requirement in this memo associated with the approval of any restrictive measures covered here in is also considered an exceptional measure.
8. **Interdisciplinary Team:** *Interdisciplinary team means a group of people involved in the life of the participant.* The team must include the participant, the participant's guardian (if any), the participant's support and service coordinator (or in Family Care, the IDT nurse and care manager) if any, and representatives of the provider agency and placing agency. It may include, if possible, the participant's family members, physician, other professionals involved with the support of the individual and other people who are significantly involved in the participant's life.
9. **Isolation:** *"Isolation" means the involuntary physical or social separation of an individual from others by the actions or direction of staff, contingent upon behavior.* For the purposes of this memo, the following are not isolation:
- Separation in order to prevent the spread of communicable disease; and
 - Cool down periods in an unlocked room when the person's presence in the room is completely voluntary and there are no adverse consequences if the person refuses to go to the room.
10. **Manual Restraint:** *"Manual restraint" means an individual holding the limbs or body of another Individual so that movement is restricted or prevented.* For the purposes of this memo policy, the following actions are **not** considered manual restraints:
- A. Medical restraints (see Medical Restraint definition below and policy in Section 4);
 - B. Holding a person's limbs or body to provide support for the achievement of functional body positions and equilibrium, such as supporting someone to walk, achieving a sitting or standing position;
 - C. Holding a person's limbs or body to prevent him or her from accidentally falling;
 - D. Use of passive self protection and/or physical redirection in response to unanticipated acting out or aggressive behaviors;
 - E. Use of graduated guidance as part of an approved intervention.
11. **Mechanical Restraint:** *"Mechanical restraint" means the application of a device to any part of a person's body that restricts or prevents movement or normal use/functioning of the body or body part to which it is applied and that cannot be easily removed by the individual.* For purposes of this memo, the following are not considered mechanical restraints:
- A. Medical restraints;
 - B. Mechanical supports;
 - C. Seat belts, bed rails and transportation safety devices such as stretcher belts, intended to prevent a person from accidentally falling during transport; and
 - D. Devices authorized by an appropriate health care professional to aid in the treatment of an acute medical condition.
12. **Mechanical Support:** *"Mechanical support" means any apparatus used to properly align a consumer's body or to help a consumer maintain his or her balance including but not limited to postural supports, position devices and orthopedic devices.*

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13. **Medical Restraint:** “Medical restraints” means an apparatus or procedure that restricts the voluntary, free movement during a medical or surgical procedure or prior to or subsequent to such a procedure to prevent further harm or to aid in recovery, or to provide protection during the time a medical condition exists.
14. **Placing Agency:** “Placing agency” means any County Department of Community Programs, Human Services, Developmental Disabilities Services or Social Services, Family Care-Managed Care Organization(MCO) or Wisconsin Indian Tribe responsible for service planning, placement assistance and on-going monitoring of individuals covered by this memo.
15. **Protective Equipment:** “Protective equipment” means a device that does not restrict movement but does limit access to one’s body and that is applied to any part of a person’s body for the purpose of preventing tissue damage or other physical harm that may result from a person’s behavior.

Protective equipment includes but is not limited to:
 - A. Helmets, with or without face guards;
 - B. Gloves or mitts;
 - C. Goggles;
 - D. Pads worn on the body; and
 - E. Clothing or adaptive equipment specially designed or modified to restrict access to a body part.
16. **Provider or provider agency:** “Provider or provider agency” means a person, agency or organization that provides supports and services to adults. Providers may include but are not limited to certify or licensed adult family homes, community based residential facilities, providers of supported employment or facility-based vocational services or agencies or individuals that provides services and supports to individuals in their own home.
17. **Restraint:** “Restraint” means any device, garment or physical hold that restricts the voluntary movement of or access to any part of an individual’s body and cannot be easily removed by the individual.
18. **Restrictive Measures;** “Restrictive measures,” in the context of this memo, means only the forms of restraint, isolation and protective equipment covered by this memo.
19. **Seclusion:** “Seclusion” is a form of isolation in which the person is physically set apart by staff from others through the use of locked doors. Seclusion does not include the use of devices like “wander guards” or similar products that may also involve locking doors.