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**Caring for Persons in Long-Term Care with
Severe Mental Illness Diagnoses**
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Purpose

The purpose of this document is to describe a regulatory model for the care of persons with severe mental illness in Missouri's long-term care facilities. The purpose of such guidance is to harmonize the practices of Facility Surveyors and Facility Advisory Nurses within the Section for Long-Term Care Regulation (SLCR), and the practices of Missouri's long-term care providers with federal and state regulations governing the operation of Skilled Nursing Facilities (SNFs) in this state. This document is intended for use by regulatory authorities and industry providers, to establish, in a consistent way, an effective approach toward the care and protection of persons with severe mental illness who require Skilled Nursing services, in the interest of public health. Guidance offered herein is excerpted from state and federal regulations, and deficiencies cited in the course of a survey or complaint investigation must be supported by the specific regulations relevant to the particular deficient practice.

When the term "resident" is used in this document, as with the State Operations Manual, it also refers "to any person who may, under State law, act on the resident's behalf when the resident is unable to act for himself or herself..." (F152) If the resident has been formally declared incompetent by a court, the surrogate or representative is whoever was appointed by the court: a guardian, conservator, or committee. The facility should verify that a surrogate or representative has the necessary authority to act on a resident's behalf. For example, a court-appointed conservator might have the power to make financial decisions, but not health care decisions. "To the degree permitted by State law, and to the maximum extent practicable, the facility must respect the resident's wishes and follow that process..." (F152)

The rights of the resident that may be exercised by the surrogate or representative may include the right to make health care decisions. "In the case of a resident who has been formally declared incompetent by a court, lack of capacity is presumed..." (F152) However, "if such a resident can understand the situation and express a preference, the resident should still be informed and his/her wishes respected to the degree practicable." (F152)

Admission

If a facility accepts residents with Mental Illness, the facility must be able to provide care and services to meet their mental health needs, along with their physical needs. The facility must ensure that it has a sufficient number of appropriately trained staff to meet the Mental Health needs of its residents. If a long

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term care facility resident requires specialized rehabilitation services, such as mental health rehabilitative services for mental illness, those services are required to be included in the resident's comprehensive plan of care. (F406) "For a resident with mental illness or mental retardation to have his or her specialized needs met, they must receive all services necessary to assist the individual in maintaining or achieving as much independence and self determination as possible." (F406)

All residents who reside in a certified bed are required to meet the criteria set forth in the Pre-Admission Screening and Resident Review (PASRR). This screening is designed to ensure residents meet a level of care criteria for a SNF or NF. Part of this screening, for persons with a mental illness, includes a Level II screening completed by a contracted agency with the Department of Mental Health. The Level II screening includes a determination as to whether the resident requires psychiatric rehabilitative services of a lesser intensity which can be provided by the nursing facility and details what those needed services are, including:

- Consistent implementation of systematic plans to change behavior;
- Drug therapy and monitoring, provision of structured environment;
- Implementation of an activity of daily living (ADL) program to teach individuals skills needed to be more independent;
- Crises intervention services;
- Individual, group and family psychotherapy;
- Development of a personal support network; and
- Formal behavior modification programs

Certified facilities are required to use the Level II decision to the maximum extent practicable in developing the resident's plan of care, along with the Minimum Data Set (MDS) assessment, and it should be maintained in the facility for reference by all staff members who provide resident care. (F285 & F514) For persons who require SNF placement for treatment of their mental illness and recovery into the community, the SNF should (upon admission) evaluate the persons discharge potential and work toward returning the resident to an environment that promotes his or her highest practicable level of functional and psycho-social well-being.

Transfer/Discharge

"Transfer" is moving the resident from the facility to another legally responsible institutional setting, while "discharge" is moving the resident to a non-institutional setting when the releasing facility ceases to be responsible for the resident's care. Transfer and discharge provisions significantly restrict a facility's ability to transfer or discharge a resident against their expressed wishes once that resident has been admitted to the facility. In these cases, the facility may not transfer or discharge the resident unless:

1. The transfer or discharge is necessary to meet the resident's welfare and the resident's welfare cannot be met in the facility;
2. The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the facility;
3. The safety of individuals in the facility is endangered;
4. The health of individuals in the facility would otherwise be endangered;

5. The resident has failed, after reasonable and appropriate notice, to pay for a stay at the facility; or
6. The resident has not resided in the facility for 30 days.

To demonstrate that any of the events specified in 1 -5 have occurred, the law requires documentation in the resident's clinical record. To demonstrate situations 1 and 2, the **resident's** physician must provide the documentation. In situation 4, the documentation must be provided by **any** physician.

All long term care facilities are required to follow both the state and federal guidelines for transferring and discharging residents, including proper notification, documentation, appeal rights, contact information for the regional long-term care ombudsman. In the case of a mentally ill individual, this would be the name, address and phone number of Missouri Protection and Advocacy. Long Term Care facilities must ensure that a "post-discharge plan of care" is completed in the discharge planning process which includes: assessing continuing care needs and developing a plan designed to ensure the individual's needs will be met after discharge from the facility into the community including aiding the resident and his/her family in locating and coordinating post-discharge services. (F284)

Resident Rights

Each resident in a long-term care facility is guaranteed specific rights by state and federal regulation. (CFR 483.10 and Chapter 198.088 RSMo) Facility policies and procedures contribute substantially to the culture and the quality of care in facilities, and should be consistent, in word, and in effect, with a facility's responsibility to "protect and promote the rights of each resident." (F150) These guaranteed rights cannot be circumscribed by a facility's policies or procedures. Organizational policies and procedures should contribute to a culture in which positive, healthy interactions are reinforced and encouraged, rather than create a punitive environment. Language used in facility policies and procedures should be coercion-free and violence free. For example, policies which indicate personal possessions may be removed for "inappropriate behavior" and must be "earned back" at the facility's discretion can create a coercive environment.

"Responsibility to respect a resident's choices is balanced by considering the potential impact of these choices on other individuals and on the facility's obligation to protect the residents from harm. The facility has a responsibility to educate a resident, family, and staff regarding significant risks related to a resident's choices." (F323) "The facility is responsible for providing care to residents in a manner that helps promote quality of life. This includes respecting residents' rights to privacy, dignity and self determination, and their right to make choices about significant aspects of their life in the facility." (F323) Each resident has "a right to a dignified existence, self determination, and communication with and access to persons and services inside and outside the facility," and further, a facility must protect and promote the rights of each resident." (F150) The facility must also inform the resident both orally and in writing of all rights, rules and regulations prior to or upon admission and during the resident's stay. (F156)

Rights of residents with legal guardians are addressed on pages 7 and 8.

PARTICIPATE IN HIS OR HER OWN CARE: Each resident has the right to know their medical condition and the options available for treatment. (F154) “Each resident has the right to refuse treatment, to refuse to participate in experimental research and to formulate an advance directive...” (F155) Residents should be both educated and encouraged to make choices that are in their best interest for rehabilitation back into the community, however, a facility may not punish or restrict other rights for a resident exercising their choice to participate in their own care. (F151) For instance, a resident may not have other rights restricted for their refusal to attend group therapy, activities, not following physician orders, or expressing opinions. Residents must be invited and encouraged to participate in their plan of care.

CHOOSE HIS OR HER OWN DOCTOR: Each resident has the right to continue to use their own doctor or select another who will be responsible for their total care. If a resident prefers, the facility can assign a doctor, however, their right to choose their own physician must be heard. For persons who have a legal guardian, the legal guardian assumes responsibility for assuring medical care and other services needed in order to promote, protect the care, comfort, safety, health and welfare of the individual are exercised. Therefore it is the legal guardian’s ultimate decision. However, if a resident has expressed a desire to have a different physician, the facility should communicate their desire to the legal guardian, along with information necessary for the legal guardian to make an informed decision. “A facility may not place barriers in the way of residents choosing their own physicians.” (F163)

REMAIN IN THE FACILITY: Each resident can be discharged only for the reasons described above. Each resident must be given a written notice 30 days in advance of the transfer or discharge. This notice must tell those residents why they are being discharged, how they can appeal, and the location(s) to which they are being sent. Residents should also not be required to remain in a facility for a certain length of time per facility policy (including program policy). Facilities must ensure “residents receive necessary specialized rehabilitative services as determined by the comprehensive assessment and care plan, to prevent avoidable physical and mental deterioration and to assist them in obtaining or maintaining their highest practicable level of functional and psycho-social well-being.” (F406) Facility policy and procedures should not prohibit residents, who have been assessed as mentally and physically safe to leave the facility premises for periods of time, to go to the store, take a walk, visit friends, etc.

VOICE GRIEVANCES: Each resident may voice concerns and problems, along with recommended changes, to facility staff or outside representatives. They should also be provided with resolution of those concerns. Operators and staff of facilities are prohibited by law from retaliating against residents if they complain. Residents should feel free to speak with the director of nursing or the administrator of the home if they encounter problems requiring immediate action. Residents are also encouraged in non-emergencies, to speak to the resident council or an ombudsman. Expressing one’s opinion or concerns allows one to have a voice in his or her current living arrangement. Residents should be advised of the formal grievance system upon admission to the facility and should be able to access it freely. (F165&F166)

MANAGE THEIR OWN FINANCES: Each resident has the option of holding their own money or having the facility keep track of it. (F158) Residents should be provided reasonable access to their personal funds and they should be able to spend their money as they wish. Residents who have a conservator for their funds may contact the conservator with any concerns they have regarding the availability of their funds at the facility. (F159)

BE FREE FROM ABUSE AND RESTRAINT: Each resident should not be subjected to physical, sexual or emotional harm or any restrictive intervention imposed for the purposes of discipline or staff convenience. Use of chemical restraints, physical restraints or seclusion is generally inappropriate in a nursing facility environment. [See later sections on Physical and Chemical Restraints]

CONFIDENTIALITY: Each resident's medical, personal, social or financial affairs should be considered privileged information. (F164) All residents have the right to review their own medical records. (F153) For residents who have a legal guardian, and who express an interest in reviewing their medical record, the facility is responsible for working with the guardian to determine how to best accommodate the residents request, in accordance with his or her assessed degree of capability. (CFR §483.10)

HAVE PRIVACY AND RESPECT: Each resident has the right to privacy in medical treatment, personal care, telephone and mail communications, visits of family and meetings of resident groups. Each resident should be treated with consideration and respect, with full recognition of his or her dignity and individuality. Residents should not be required to do things against their will. (F164)

COMMUNICATE FREELY: Each resident may privately associate and communicate with persons of his or her choice. Residents may "send and promptly receive mail that is unopened." (F170) Facility policy may not limit a person's access to friends, family, or clergy. Policies should promote a homelike environment and enhance the person's quality of life. Effective rehabilitation and recovery should be a joint effort between the resident, their family and/or guardian, and the facility. Facility policy may not infringe upon these rights, however it should provide guidance to facility staff on how to provide security in the facility. For example, facilities may establish procedures to individually assess residents and provide care plan interventions when appropriate to determine if supervision should be provided when letters or packages are opened by the resident, to ensure weapons or illegal substances are not present in the items opened. However, opening residents' mail without them being present is a violation of their rights. Communication with others is a highly important aspect of successful treatment, recovery and rehabilitation. Residents should be encouraged to maintain communication with family and others who will be their support system upon returning to the community.

Each resident "has the right to have reasonable access to the use of a telephone where calls can be made without being overheard." (F174) Access to a telephone and assistance with the purchase of calling cards for their use is important. "Telephones in staff offices or at nurses' stations do not meet the provisions of this requirement."(F174)

If a legal guardian wants to limit a specific resident's access to his or her mail or telephone, then the facility must communicate with the legal guardian to assess the resident's degree of capability and establish interventions to be incorporated in the resident's overall plan of care. As long as the facility is following the legal guardian's wishes and the facility is following the resident's individualized plan of care for the resident, then the facility is in compliance with state and federal regulations. Equally important is ensuring that while exercising their own rights, residents do not infringe on the rights of others. Expectations for phone sharing, limiting the length of calls, and nuisance calls should be discussed with the resident.

PARTICIPATE IN ACTIVITIES: Each resident **may** participate in social and religious activities, both inside and outside the facility. The facility should not require a resident to perform any duties or services. Residents should be encouraged to participate in activities that interest them and assist in their rehabilitation and recovery back into the community. Residents have the right to **not** participate in activities or groups. If a

resident chooses to exercise their right to not participate, they cannot be penalized for doing so. Residents should also be encouraged to participate in outside activities in the community on their own. Residents should have age appropriate activities offered.

KEEP HIS OR HER POSSESSIONS: Each resident may retain his or her personal possessions as space permits. This includes items such as clothing, jewelry, electronics, and shoes. Facility policy and program policies should encourage access to possessions for all residents. If a facility has identified an individual resident who should have a particular item removed from his or her room due to concerns for that resident's safety or the safety of others, this should be discussed with the resident and his or her guardian and should be included in that resident's care plan to provide guidance on the goals the resident is to achieve in order to again be able to possess the item.

RETAIN MARITAL PRIVILEGES: Each resident has the right to private visits with a person of his or her choosing and may share a room with a spouse or anyone of his or her choosing if each are residents. Residents should also be provided privacy during visits with their spouses or significant others.

PURCHASE GOODS AND SERVICES: All residents should receive an itemized bill for all goods and services provided by the facility. For residents who have a conservator, the conservator should also receive an itemized bill. Residents may purchase or rent goods or services not included in the daily or monthly rate, however, they should be notified of the charge related to those good or services prior to them being provided/purchased. Residents who receive Medicaid and Medicare may not be charged for any items or services for which payment is made under those plans. (F162)

ACCESS TO TOBACCO, FOOD ITEMS, ACTIVITIES: Routine access to tobacco, food items, or activities should not be used as a disincentive to modify residents' behavior, whether by individual staff practice or facility policy. Resident behavior modification programs should not be punitive in nature and all residents should have equal access to these items, subject to the facility's rules, as long as those rules do not violate a regulatory requirement. (F151)

Rights Established by the Missouri Department of Mental Health:

In addition to these rights, the Department of Mental Health has its own set of rights, which may or may not apply to particular residents of long-term care facilities, depending on contractual obligations to that department. These can be found at 630.110 and 630.115 RSMo.

Is it all right for a facility to limit some resident's rights through policy and procedures?

No. A facility can adopt reasonable rules, but each resident has basic rights as defined by statutes or regulations that a facility may not restrict as a matter of policy or standard operating procedure. (F151) In rare instances, based upon an individual resident's clinical assessment, and in conjunction with his or her care plan, it may be necessary and appropriate for a facility to place short term restrictions on some resident rights. However, these restrictions must be related to the need for safety of the resident (such as if they are currently exhibiting signs of being a danger to themselves or others) and there must be an assessed reason that is care planned, with goals and strategies for that resident's safety and the eventual reinstatement of the right. To avoid unnecessary conflict, a facility may consider where appropriate creating an ad hoc Resident Rights Committee which includes the resident's guardian, appropriate family members and the treatment

team, to review the resident's specific situation and assure that a restriction on the rights of the resident is appropriate. Should a guardian wish to restrict access to one or more of a resident's rights, the facility must request of the guardian specific justification of the nature, scope and length of that restriction. The involvement of a surrogate or representative does not automatically relieve a facility of its duty to protect and promote the resident's interest. (F152) Each resident should also be informed and provided with the opportunity to express a preference. (F152)

Can a facility refuse to follow legal guardian directives?

Long-term care facilities do not have the right to refuse to follow legal guardian directives, unless those directives are a direct violation of facility policy, which in turn may mean the facility is unable to meet the resident's needs. It is also worthy of note that in the case of individuals with serious mental illness, guardianship is often the rule rather than the exception. "The involvement of a surrogate or representative does not automatically relieve a facility of its duty to protect and promote the resident's interests. For example, a surrogate or representative does not have the right to insist that a treatment be performed that is not medically appropriate, and the right of a surrogate or representative to reject treatment may be subject to State law limits." (F152) The facility does have the obligation to educate the legal guardian regarding the potential effects his or her directives could have on the resident as a whole. (F323). The facility should always document the limitations imposed on residents by the legal guardian during the assessment and care planning process, so that all facility staff understand the problem, goals and steps to follow in these instances. The facility should also advise the legal guardian upon admission of all policies and procedures established to safeguard resident rights, to ensure the legal guardian is knowledgeable of facility policies and procedures prior to the resident's admission, and to ensure the facility can meet the resident's needs.

If the facility feels that the legal guardian is not acting in the best interest of the resident and in accordance with his or her statutory duties as a legal guardian, resulting in abuse or neglect, then the facility is obligated by Section 198.070, RSMo, to immediately report such incidents to the Department.

May a legal guardian limit an individual's resident's rights?

Yes, a legal guardian can limit a resident's rights. A guardian may even authorize the use of restraints against a resident's will in some circumstances. This does not take away the fact that the facility, which often times may better understand the resident's current condition and potential best practices in these types of situations, is responsible for educating the legal guardian on both the positive and negative outcomes that could potentially occur as a result of the limitation. In addition, the facility must ensure that through the assessment and care plan process, the facility and legal guardian have discussed the specific right to be limited, the duration of the limitation, and the goals to be established by imposing the limitation.

A facility must "...protect and promote the resident's interests..." (F152) "A facility must promote the exercise of rights for each resident, including any who face barriers... in the exercise of these rights. A resident, even though determined to be incompetent, should be able to assert these rights based on his or her assessed degree of capability." (Interpretive Guidelines CFR 483.10)

It may be necessary and appropriate when citing a deficiency related to the care of residents under guardianship, to obtain interviews with those guardians for potential inclusion in the Statement of Deficiencies.

Physical Restraints

42 C.F.R. 483.13(a) provides that “the resident has the right to be free from any physical or chemical restraints imposed for discipline or convenience, and not required to treat the resident’s medical symptom.” 19 CSR 30-88.010 (26) The resident has the right to be free from any physical or chemical restraint.

CMS defines “physical restraints” in the State Operations Manual (SOM), Appendix PP as, “any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident’s body that the individual cannot remove easily which restricts freedom of movement or normal access to one’s body.” The State definition is almost identical to that of CMS and defines *physical restraints* as, “any manual method or physical or mechanical device, material or equipment attached to or adjacent to the resident’s body that the individual cannot remove easily which restricts freedom of movement or normal access to one’s body.”

Are manual hold techniques, for persons who are acting out, considered to be a physical restraint?

Yes, manual hold techniques are designed to physically hold, immobilize and reduce the ability of an individual to move his or her arms, legs, body or head freely- therefore they should be considered to be a physical restraint. This includes any holds during the administration of medication, or “take-down” procedures.

Can physical restraints be used by a skilled nursing facility for a resident who is “acting out?”

Non-physical intervention techniques should always be the first course of action to assist in the de-escalation of behaviors, and potential interventions should be clearly delineated and easily understood by anyone who reads the resident’s care plan. Only as a last resort, when a resident has unanticipated violent or aggressive behavior that places him/her or others in **imminent danger**, does the facility have the discretion to utilize manual holds or other physical restraints in order to restrain the resident. Physical restraints may not be used for the purpose of discipline or convenience. According to CMS, discipline is, “any action taken by the facility for the purpose of punishing or penalizing residents,” and convenience is, “any action taken by the facility to control resident behavior or manage a resident’s behavior with a lesser amount of effort by the facility and not in the residents’ best interest.” (F221&F222)

CMS guidance states, “...if the resident needs emergency care, restraints may be used for brief periods of time to permit medical treatment to proceed unless the facility has a notice indicating that the resident has previously made a valid refusal of the treatment in question. If a resident’s unanticipated violent or aggressive behavior places him/her or others in imminent danger, the resident does not have the right to refuse the use of restraints. In this situation, the use of restraints is a measure of last resort to protect the safety of the resident or others and must not extend beyond the immediate episode.” (F221&F222)

If care planned behavioral interventions fail, the facility must review and revise the residents care plan to reduce further use of physical restraints.

Should behavioral interventions used for a resident with a history of violent or aggressive behaviors be care planned?

Yes, for a resident with a history of unpredictable, violent or aggressive behavior, the facility must assess the resident to identify triggers of behavior, and types of behavioral interventions that have been successfully used in the past. Behavioral interventions are defined as “individualized non-pharmacological approaches (including direct care and activities) that are provided as part of a supportive physical and psychosocial environment, and are directed toward preventing, relieving, and/or accommodating a resident’s distressed behavior.” (F329) Care planning and education of all employees on these critical care areas will ensure safe and effective interventions are used. If interventions are not successful, the treatment team and resident should discuss alternatives to be used and revise the care plan and train all staff on the new interventions. If care planned interventions fail, and it becomes necessary to utilize a restraint, due to the resident posing imminent danger to his or her self or others, the facility staff should document the event in the resident’s nurse’s notes. A care plan meeting should be held to discuss why interventions in the care plan were ineffective, propose changes to prevent future usage of restraints, and evaluate the potential need for a significant change assessment. “If a resident’s refusal of treatment brings about a significant change, the facility should reassess the resident and institute care planning changes.” (F155) Facility staff must communicate the need for the physical restraint to the resident’s physician and obtain a written authorization (see below). Following any failure of behavioral interventions care planned for a resident, the care plan team and the resident shall discuss and modify the current treatment plan and these changes must be communicated to all staff in the facility.

Should physical interventions used for a resident with a history of violent or aggressive behaviors be care planned?

Manual holds, should only be used in **emergent** situations when the resident poses a threat of imminent danger to himself or others and all behavioral interventions in the care plan have been utilized and have failed.

Due to the fact the restraints can, “reduce independence, functional capacity, and quality of life,” including, “a loss of autonomy, dignity, self respect and may show symptoms of withdrawal, depression, or reduced social contact,” the facility must ensure the resident is “fully informed,” and must explain to the resident, “in the context of the resident’s condition and circumstances, the potential risks and benefits of all options under consideration including using a restraint, not using a restraint, and alternatives to restraint use.” F221/F222

Restraints are limited to use in circumstances in which the resident has medical symptoms that warrant the use of restraints. (F221&F222)

“Before a resident is restrained, the facility must determine the presence of a specific medical symptom that would require the use of restraints and how the use of restraints would treat the medical symptom, protect the resident's safety, and assist the resident in attaining or maintaining his or her highest practicable level of physical and psychosocial well-being. Medical symptoms that warrant the use of restraints must be documented in the resident's medical record, in his or her ongoing assessments, and in his or her care plan.” (F221&F222)

In order to use a restraint, the facility must show how use of the restraint will:

- treat a resident's specific medical symptom that requires the use of a restraint;
- provide for his or her safety;
- assist the resident in attaining or maintaining his or her highest practicable level of physical or psychosocial well-being;
- is not being used as a means of discipline; and
- is not being used for staff convenience.

If the facility is not able to do this, then the restraint has been inappropriately applied. If a facility utilized restraints, the facility must also make attempts to reduce the incidence of restraint use for each resident as well (so continual assessment of how often it is used, when it is used, the antecedents for its use, etc should be reviewed as part of the care plan review process and also through Quality Assurance meetings).

If the facility has determined that a restraint is necessary in order to treat the resident successfully, then its use must be included in the individual's MDS assessment and care plan and must be able to provide documentation showing each of the criteria above and how the facility will, "engage in a systematic and gradual process toward reducing restraints." (F 222)

As a word of caution: the inclusion of a restraint in a resident's care plan may lead direct care staff to consider the routine use of the restraint, precisely because it has been specifically approved as part of the residents plan of care. Therefore, the facility must be diligent in the monitoring of the use of the restraints, and have a systematic process for reducing their incidence.

Should the facility notify the resident's physician and/or psychiatrist when a resident's behavior has become violent or aggressive enough to warrant the use of a physical restraint/manual hold?

Yes, the resident's physician and/or psychiatrist should be immediately notified of change in the resident's physical, mental or psychosocial status that has presented as a life threatening condition, warranting the use of a physical restraint. Clinical complications, a need to alter treatment or the commencement of a new form of treatment must be evaluated by the physician.

State regulations at 19 CSR 30-88.010 (26) (A) are clear that the use of restraints must be authorized in writing by the physician for a specified period of time or (B) if it becomes necessary in the case of an emergency to protect the resident from injury to him/herself or others. Any restraint must be applied by staff trained in its safe application, and must be authorized by professional personnel (such as a licensed or registered nurse, or physician), and the action taken must immediately be reported to the resident's physician and an order obtained containing specific criteria including the reason for the restraint, the type of restraint, when it may be removed and any other actions required. When the physician has determined a restraint is necessary, only devices that are the least restrictive for the resident and consistent with the resident's total treatment program shall be used. It is never appropriate for the resident's physician orders to contain "standing" or PRN (as needed) orders for the use of any type of restraint.

What types of crisis prevention techniques are appropriate for use in a long term care facility?

Non physical interventions are the first choice as an intervention when someone is beginning to lose control of his or her actions or behaviors. Early intervention crisis prevention techniques must be the first effort used to de-escalate conflict when possible. These techniques must be taught to all staff members, prior to their being placed in a situation where they must be used. The Missouri Department of Mental Health currently recognizes three techniques for use by their providers. These programs include the *Nonviolent Crisis Intervention*® program, developed by the **Crisis Prevention Institute (CPI)**, **The Mandt System**® and **Pro-ACT**®. LTC providers are not required to use these particular programs, however, any crisis prevention/intervention program used by a long term care facility should be based upon research and contain data that shows effectiveness of the program. Additionally, these programs must teach staff techniques to decrease the incidence, to respond effectively to the warning signs of someone beginning to lose control, and also address how staff can deal with their own stress, anxieties, and emotions when confronted with these challenging situations. Regardless of the interventions used, LTC providers must ensure they are using the safest possible interventions for all residents. Long term care providers are encouraged to review their policies and procedures for the use of crisis prevention techniques to ensure these basic principles help to govern the use of these interventions:

- Respect of client rights and the promotion of the exercise of rights for each resident, including any who face barriers (such as communication problems, hearing problems and cognition limits) in the exercise of these rights and the need for a non-coercive and non-violent environment; (CFR §483.10)
- Minimization of the risks associated with emergency response to assaultive behavior; (F226)
- Emphasis on the role of supervision of **employee** behavior; (F226)
- Promotion of regular in-service training; (F226)
- Emphasis of team skills; (F226)
- Provision of experience in problem solving. (F226)

Chemical Restraints

The Centers for Medicare and Medicaid Services (CMS) defines a chemical restraint as any drug that is used for discipline or convenience and not required to treat medical symptoms. 19 CSR 30-83.010(6) defines chemical restraint as a psychopharmacologic medication that is used for discipline or convenience and not required to treat medical symptoms.

What should be considered in determining whether or not a resident is being chemically restrained?

A Chemical Restraint is any drug used to control behavior or to restrict the person's freedom of movement which is not a recognized treatment for the individual's medical or psychiatric condition. Use of a medication is considered inappropriate if: (a) it is not an accepted treatment for the individual's mental disorder; or (b) the medication is administered excessively, such that it can be expected to produce sedation

or limit the individual's ability to participate in the treatment process rather than treat symptoms of the mental disorder. However, medication may be used appropriately to treat behavioral symptoms of mental illness, including aggressive behavior. In that case, the specific medication use is included in the treatment plan and is not considered chemical restraint.

For example, if a resident does NOT routinely receive a medication such as Lorazepam (Ativan) or Haloperidol (Haldol) to treat a medical symptom, an order to administer this medication PRN may be considered chemical restraint. Long term care facilities should follow the guidelines set forth in 19 CSR 30-88.010 (26) for emergency use of chemical restraints, as outlined above in mechanical restraints. (See Pages 9, 10 & 11)

If a facility utilizes pharmacological interventions, the facility must ensure the requirements at F329 (Unnecessary Drugs) are met including:

- The drug helps to promote or maintain the resident's highest practicable mental, physical and psychosocial well-being;
- The resident receives only those medications, in doses and for the duration clinically indicated to treat the residents assessed condition;
- Non-pharmacological interventions (such as behavioral interventions) are considered and used when indicated, instead of, or in addition to, medication;
- Clinically significant adverse consequences are minimized;
- Potential contribution of the medication regimen to an unanticipated decline or newly emerging or worsening symptom is recognized and evaluated.

New medication order as an emergency measure – When a resident is experiencing an acute medical problem or psychiatric emergency (e.g., the resident's behavior poses an immediate risk to the resident or others), medications may be required. In these situations, it is important to identify and address the underlying causes of the problem or symptoms. Once the acute phase has stabilized, the staff and prescriber consider whether medications are still relevant. Subsequently, the medication is reduced or discontinued as soon as possible or the clinical rationale for continuing the medication is documented. When psychopharmacological medications are used as an emergency measure, adjunctive approaches, such as behavioral interventions and techniques should be considered and implemented as appropriate. Longer term management options should be discussed with the resident and/or representative(s).” (F329)

The interdisciplinary team (the resident, facility nursing staff, the resident's physician, pharmacist, the facility medical director and the Quality Assurance committee) must monitor facility practices to ensure medications used are necessary.

Is a physician's order alone sufficient to warrant the use of a chemical restraint?

No, a physician's order alone is not sufficient to warrant the use of a chemical restraint. The facility is ultimately accountable for the appropriateness of the use of either a chemical or physical restraint. Chemical restraints should only be used in **emergent** situations when the resident poses a threat of imminent danger to himself or others and all interventions in the care plan have been utilized and have failed. The use of any chemical restraint is considered to be a treatment plan failure and the facility must take immediate action to evaluate the resident's current condition and care plan interventions must be assessed for where it failed and changes must be made accordingly.

Involuntary Seclusion

Is involuntary seclusion allowed in a long-term facility?

"Involuntary seclusion" is defined as separation of a resident from other residents, separation from his or her room, or confinement to her/his room (with or without roommates) against the resident's will, or the will of the resident's legal representative. CFR 483.13 strictly prohibits the use of involuntary seclusion.

The state regulation pertaining to involuntary seclusion is 19 CSR 30-88.010 (22): "Each resident shall be free from abuse. Abuse is the infliction of physical, sexual, or emotional injury or harm and includes verbal abuse, corporal punishment, and involuntary seclusion."

19 CSR 30-83.010 (25) delineates: *Involuntary seclusion* shall mean separation of a resident from other residents or from his/her room or confinement to his/her room (with or without roommates) against the resident's will, or the will of the resident's legal representative. Emergency or short term monitored separation from other residents will not be considered involuntary seclusion and may be permitted if used for a limited period of time as a therapeutic intervention to reduce agitation until professional staff can develop a plan of care to meet the resident's needs.

Specialized locked behavioral units shall not be considered an instance of involuntary seclusion, if the stated purpose of that unit is to provide specialized care for residents who are cognitively impaired, and all residents on that unit have been assessed to meet the criteria. Care and services must be provided in accordance with each resident's individual needs and preferences rather than for staff convenience, and as long as the resident, surrogate, or representative (if any) participates in the placement decision, and is involved in continuing care planning to assure placement continues to meet resident needs and preferences. A resident's voluntary use of a calming room is not considered seclusion. (F223)

Culture Change and Interpretive Guidance

F241- Dignity

"The facility must promote care for residents in a manner and in an environment that maintains or enhances each resident's dignity and respect in full recognition of his or her individuality." CMS further defines dignity as: "Dignity" means that in their interactions with residents, staff carries out activities that assist the resident to maintain and enhance his/her self-esteem and self-worth." (F241)

Residents grooming as they wish, encouraging and assisting residents to dress in their own clothes, assisting residents to attend activities of their own choosing, promoting resident independence and dignity, respecting residents' private space and property (e.g., not changing radio or television station without resident's permission, knocking on doors and requesting permission to enter, closing doors as requested by the resident, not moving or inspecting resident's personal possessions without permission), respecting residents by speaking respectfully and addressing the resident with a name of the resident's choice, focusing on residents as individuals when they talk to them and addressing residents as individuals when providing care and services, and maintaining an environment that maintains or enhances a residents self-esteem or self worth are vital to ensure dignified care is being provided. (F241)

Many long term care facilities that provide programs, training, and rehabilitation efforts to assist persons with mental illness in managing their disease process have challenges in creating a home-like environment. Many times these residents have come to the facility from some type of restricted/correctional environment. In a skilled nursing setting, residents are provided care and services to assist them in successful management of their behaviors. Facility practices such as having areas devoid of decorations, placing bars on windows, metal toilets, toilets without seats, barren floors, and some signage can serve as a constant reminder of an institutional setting such as a jail or prison and can have an adverse impact on a resident's psychological well-being, as well as not being homelike. Facility practices must be reviewed to determine impact on the resident. Some practices, such as placing bars on windows may not cause any emotional harm to residents if they grew up with bars on their windows in the inner city to keep persons from breaking into their homes. However, this type of practice could very well have a negative effect on a resident's self-esteem or self-worth if the resident views the bars in a negative way. CMS guidance at F461 states, "The facility is required to provide for a, 'safe, clean, comfortable and homelike environment,' by deemphasizing the institutional character of the setting, to the extent possible. Windows are an important aspect in assuring the homelike environment of a facility." Resident and family interviews will assist both the facility and surveyors in determining if a facility has been successful in maintaining an environment that maintains or enhances a resident's self-esteem or self worth. (F241)

F242- Self-Determination and Participation

Each resident has the right to:

- (1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care;
- (2) Interact with members of the community both inside and outside the facility; and
- (3) Make choices about aspects of his or her life in the facility that are significant to the resident.

Each facility must, "create an environment that is respectful of the right of each resident to exercise his or her autonomy regarding what the resident considers to be important facets of his or her life. This includes actively seeking information from the resident regarding significant interests and preferences in order to provide necessary assistance to help residents fulfill their choices over aspects of their lives in the facility." (F242) Facility policies that dictate or prohibit resident self determination or participation are a direct violation of this regulation.

Some examples of wording that could be deemed as a violation include:

- "For Every Choice There is a Consequence."
- "Poor Resident Behavior will include, but not be limited to the following:
 - Sleeping
 - Horseplay
 - Cursing
 - Inappropriate Comments
 - Not Paying Attention"

F252-Environment

“The facility must provide a safe, clean, comfortable and homelike environment, allowing the resident to use his or her personal belongings to the extent possible.” CMS guidance states, “A ‘homelike environment’ is one that de-emphasizes the institutional character of the setting, to the extent possible, and allows the resident to use those personal belongings that support a homelike environment. A personalized, homelike environment recognizes the individuality and autonomy of the resident, provides an opportunity for self-expression, and encourages links with the past and family members. The intent of the word ‘homelike’ in this regulation is that the nursing home should provide an environment as close to that of the environment of a private home as possible.”

Some long term care facilities have historically struggled with the concept of “homelike.” Because of the differing opinions of what constitutes “homelike” for each person in a facility, a facility can only really know if they have been successful in creating home by talking to the residents who live there. Significant changes to the environment, without discussion and input from the residents who call the facility “home” (and their guardians) can lead to deficient practices, depending on the outcome of the resident. Because, “a determination of ‘homelike’ should include the resident’s opinion of the living environment,” their input into their living environment is essential. (F252)

For example, facilities that refrain from placing decorations on the walls of resident rooms, dining rooms and common areas, due to the fact some residents have a tendency to tear them from the walls or break them, must begin to think of other ways they can meet this requirement. Plexiglas in picture frames (instead of real glass) and murals painted on walls are a couple of ways facilities can create a homelike décor in the facility. Examples of “institutional behavior” that facilities must strive to eliminate are:

- Waiting in line at the outside entrance for “smoke breaks;”
- Waiting in line at the entrance of the dining room for the dining room to “open;” and
- Lining up for medication administration in the hallway.

“A ‘homelike’ environment is not achieved simply through enhancements to the physical environment. It concerns striving for person-centered care that emphasizes individualization, relationships and a psychosocial environment that welcomes each resident and makes her/him comfortable.” (F252)