

10A NCAC 28D .0208 INTERVENTIONS REQUIRING ADDITIONAL SAFEGUARDS

(a) The interventions specified in this Rule present a significant risk to the client and therefore require additional safeguards. These procedures shall be followed in addition to the procedures specified in Rule .0203 of this Section.

(b) The following interventions are designed for the primary purpose of reducing the incidence of aggressive, dangerous or self-injurious behavior to a level which will allow the use of less intrusive treatment/habilitation procedures. Such interventions include the use of:

- (1) seclusion, physical restraint or isolation time-out employed as a measure of therapeutic treatment;
- (2) seclusion, physical restraint or isolation time-out used on an emergency basis more than 40 hours in a calendar month or one episode in which the original order is renewed for up to a total of 24 hours in accordance with the limits specified in Subparagraph (1)(8) of Rule .0206 of this Section;
- (3) unpleasant tasting substances;
- (4) planned non-attention to specific undesirable behaviors when the target behavior is health threatening;
- (5) contingent deprivation of any basic necessity;
- (6) contingent application of any noxious substances which include but are not limited to noise, bad smells or splashing with water; and
- (7) any potentially physically painful procedure or stimulus which is administered to the client for the purpose of reducing the frequency or intensity of a behavior.

(c) Such interventions shall never be the sole treatment modality for the elimination of target behavior.

(d) The intervention shall always be accompanied by positive treatment or habilitation methods which shall include, but not be limited to:

- (1) the deliberate teaching and reinforcement of behaviors which are non-injurious;
- (2) the improvement of conditions associated with non-injurious behaviors such as an enriched educational and social environment; and
- (3) the alteration or elimination of environmental conditions which are reliably correlated with self-injury.

(e) Prior to the implementation of any planned use of the intervention the following written approvals and notifications shall be obtained. Documentation in the client record shall include:

- (1) approval of the plan by the treatment/habilitation team;
- (2) that each client whose treatment/habilitation plan includes interventions with reasonably foreseeable physical consequences shall receive an initial medical examination and periodic planned monitoring by a physician;
- (3) that the treatment/habilitation team shall inform the internal client advocate that the intervention has been planned for the client and the rationale for utilization of the intervention;
- (4) the treatment/habilitation team shall explain the intervention and the reason for the intervention to the client and the legally responsible person, if applicable;
- (5) the prior written consent of the client or his legally responsible person shall be obtained except for those situations specified in Rule .0206(g)(1) in this Section. If the client or legally responsible person refuses the intervention, the State Facility Director shall follow the right to refuse treatment procedures as specified in this Subchapter;
- (6) that the plan shall be reviewed and approved by a review committee, designated by the State Facility Director, which shall include that:
 - (A) at least one member of the review committee shall be qualified through experience and training to utilize the planned intervention; and
 - (B) no member of the review committee shall be a member of the client's treatment team;
- (7) that the treatment/habilitation plan may be reviewed and approved by the State Facility Director; and
- (8) if any of the persons or committees specified in Subparagraphs (e)(1), (2), (4), (5) or (6) of this Rule do not approve the continued use of a planned intervention, the planned intervention shall be terminated. The State Facility Director shall establish an appeal mechanism for the resolution of any disagreement over the use of the intervention.

(f) Neither the consents nor the approvals specified in Paragraph (e) of this Rule shall be valid for more than six months. The treatment/habilitation team shall re-evaluate the use of the intervention and obtain the client's and legally responsible person's consent for continued use of the intervention at least every six months.

(g) The plan shall be reviewed at the meeting of the Human Rights Committee following each evaluation within the constraints of 10A NCAC 28A .0209. The Committee, by majority vote, may recommend approval or disapproval of

the plan to the State Facility Director or may abstain from making a recommendation. If the State Facility Director does not agree with the decision of the Committee, the Committee may appeal the issue to the Division in accordance with the provisions of 10A NCAC 28A .0208.

(h) The intervention shall be used only when the treatment/habilitation team has determined and documented in the client record the following:

- (1) that the client is engaging in behaviors that are likely to result in injury to self or others;
- (2) that other methods of treatment or habilitation employing less intrusive interventions are not appropriate;
- (3) the frequency, intensity and duration of the target behavior, and the behavior's probable antecedents and consequences; and
- (4) it is likely that the intervention will enable the client to stop the target behavior.

(i) The treatment/habilitation team shall designate a state facility employee to maintain written records on the application of the intervention and accompanying positive procedures. These records shall include the following:

- (1) data which reflect the frequency, intensity and duration with which the targeted behavior occurs (scientific sampling procedures are acceptable);
- (2) data which reflect the frequency, intensity and duration of the intervention and any accompanying positive procedures; and
- (3) data which reflect the state facility employees who administered the interventions.

(j) The interventions shall be evaluated at least weekly by the treatment team or its designee and at least monthly by the State Facility Director. The designee of the State Facility Director shall not be a member of the client's treatment/habilitation team. Reviews shall be documented in the client record.

(k) During the use of the intervention, the Human Rights Committee shall be given the opportunity to review the treatment/ habilitation plan within the constraints of 10A NCAC 28A .0209.

*History Note: Authority G.S. 122C-51; 122C-53; 122C-60; 122C-62; 143B-147;
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