

SERVING, EMPOWERING AND
SUPPORTING MISSOURIANS
TO LIVE THEIR BEST LIVES.



Restrictive Interventions and Due Process Review Committee What are Limited Practices and Prohibited Practices?

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Today's Agenda

- ✓ Due Process Updates
- ✓ Key elements of a due process referral
- ✓ How to access assistance through Individual Rights Consultation
- ✓ Definitions of key terms
- ✓ Limited Restrictive Practices
- ✓ Prohibited Restrictive Practices

What Changed and Why?

- 👤 Home and Community Based Services (HCBS) and the Settings Rule
- 👤 Reorganized Due Process Efforts

Role & Purpose of Due Process

The Due Process Review Committee is the **regulatory mechanism** to assure compliance with the Settings Rule.

Due Process is the **tool** used by the Division to ensure and document compliance with the Settings Rule and inform the team when there is not alignment.

Due process begins with the Planning Team; ensuring proper justification, risks and benefits have been considered, and the least restrictive measures are proposed.

The Committee reviews the plan to ensure all components are properly documented and align with the Settings Rule.

HCBS Rule – Waiver Requirements

[eCFR :: 42 CFR 441.301 -- Contents of request for a waiver.](#)

HCBS Settings Rule

<https://acl.gov/programs/hcbs-settings-rule#:~:text=The%20Home%20and%20Community%20Based,in%20the%20most%20integrated%20setting>. Due Process Review

Due Process Review Procedure 12.8.1

[12.8.1 A Due Process Review | dmh.mo.gov](#)

Emergent Due Process Review Procedure 12.8.1 C

[12.8.1 C Emergent Due Process Reviews | dmh.mo.gov](#)

Myth Busters



- 👤 Due Process Committee Approves/Denies
- 👤 Columbus Group Controls the Process
- 👤 Due Process is Required Before Implementing
- 👤 Doctor's Orders Don't Require Due Process
- 👤 Court Order Supersedes Due Process

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Elements of Due Process Referral Individual Rights Consultation

Rachelle Moffat

**Supporting unique needs while ensuring
compliance**

What is a Restriction?



Practices that limit an individual's freedom of movement, access to other individuals, locations or activities, or rights with the intention to prevent harm to themselves or others.

Overview of Referral

- 👤 A referral for due process can be submitted at [DD Due Process Referral](#).
- 👤 The submitter will receive an automated email stating the referral was submitted.
- 👤 If you are unable to upload documents to the referral system, please submit those to MODPRC@columbusorg.com.

Overview of Referral



These are the 10 components

- 1) Description of the rights restriction
- 2) Justification, Purpose, and Rationale
- 3) Teaching or Support Strategies
- 4) Conditions
- 5) Monitoring Progress
- 6) No Harm Assurance
- 7) Criteria for Restoration
- 8) Consent
- 9) Review Schedule
- 10) Notice of Right to Due Process

1) Identification of the Proposed Rights Restriction



Give a detailed description of the right that will be restricted.

Identification of the Proposed Rights Restriction Example



Natalie has restricted access to scissors and all kitchen knives.

2) Justification, Purpose, and Rational



1. Identify a specific and individualized assessed need.
2. Explain the reason the restriction or restriction is being put in place.
3. Document less intrusive methods of meeting the need that have been tried but did not work.
4. Describe any historical pattern or significant situation which has occurred that would justify a restriction. If the plan is being referred for annual review, there must be documentation noting the progress or lack of progress from the past year of implementation (i.e., summary of monthly reviews, quarterly reviews, behavioral data results, evaluations about the effectiveness of medications/interventions).
5. Explain the restrictions or limitations are necessary to keep the person safe or others safe.

Justification Example

A Functional Behavior Assessment (FBA) was completed on 7-25-24 finding these aggressive behaviors occurring multiple times a week.

Natalie always has restricted access to scissors and all kitchen knives due to her history of physical aggression in the form of throwing sharp objects at others and cutting herself with sharp objects resulting in injuries requiring medical interventions (stitches, psychiatric hospitalizations).

Natalie's team has tried less intrusive methods such as trying to put away the sharp objects as she escalates; however, there were 15 times in the previous plan year where she would escalate so quickly that it didn't give her direct support staff time to put away the sharps.

This past plan year, it was documented that Natalie have 27 episodes of aggressive behaviors towards herself and others. Natalie's ability to deescalate is something that she continues to work on with her BCBA and direct support staff. Natalie and her team have developed coping skills; however, once Natalie becomes agitated, it is hard to redirect her to a more desirable behavior.

With the number of episodes of aggressive behavior in the past year, it is important to keep Natalie safe by keeping scissors and kitchen knives always locked.

3) Teaching or Support Strategies



1. Outcomes/Strategies that are being taught to help an individual develop skills in order to overcome the need for this restrictive support.
2. Document the positive interventions and supports used prior to any modifications to the person-centered service plan.
3. Provide evidence that this type of intervention/teaching has worked in the past and information on why this is the method by which the person learns best.
4. If there are restrictive supports that are required to keep the person or others safe and teaching strategies have not been identified, then the supports need to be identified in the ISP and the efforts that are being explored to support the person in the least restrictive way.
5. For teaching and support strategies, document who is responsible for the training of the strategies.

Teaching or Support Strategies

Example



Natalie has a difficult time accepting criticism or being corrected. When this occurs, she will either become upset with the person delivering the message or she will become self-critical.

The team concurs that locking all knives and scissors in a kitchen drawer is necessary to ensure the safety of Natalie and others in the home while she works on responding to criticism without aggression.

Natalie has a program using coping strategies and de-escalation techniques guiding staff. Natalie continues to work on her programs with little success. Currently, when staff recognize that Natalie is escalating, one staff will gather the knives and scissors and hide them. If only one staff is working, this leaves Natalie unsupervised and staff unable to engage with her. Over the plan year there were 15 times in the previous plan year where she would escalate so quickly that her direct support staff didn't have enough time. The team is requesting ABA services and a functional analysis to identify the cause for increase in frequency of aggression over the past three months.

This past plan year, it was documented that Natalie had 27 episodes of aggressive behaviors; 10 towards herself with 6 requiring medical attention and 17 toward others with 9 requiring medical attention. Natalie averaged one incident a month until November, December, and January when incidents increased to 4, 6, and 5 consecutively.

Once Natalie becomes agitated, it is hard to redirect or reason with her. With the number of episodes of aggressive behavior in the past year, it is important to keep Natalie safe by keeping scissors and kitchen knives always locked.

4) Conditions

1. Explain where the restriction or limitation will be imposed (i.e., only at home, in the community, day program, in kitchen, etc.).
2. Include a clear description of the condition that is directly proportionate to the specific assessed need.
3. Explain when the restriction will be imposed (i.e., at all times, in morning, after/before a specific event or situation, if family present, only when...).

Conditions Example

Scissors and all kitchen knives are locked in a kitchen cabinet at all times when Natalie is home.

If a knife is on the table when Natalie goes out to eat at a restaurant, staff will remove the knife and keep it out of Natalie's reach or ask the server to take it. If a knife is needed while eating out, Natalie's Direct Support Staff will assist Natalie in cutting up the food.

5) Monitoring Progress

1. Include a regular collection and review of data to measure the ongoing effectiveness of the modification.
2. Information on data collection methods should include.... Who is documenting?
3. Where is data kept (i.e., daily progress notes, outcome data sheets, MAR, (etc.)?)
4. What is the frequency of documentation (i.e., daily, weekly, monthly, etc.)?
5. How often is the data reviewed by team?

Monitoring Example



All Direct Support Staff will document what **behaviors Natalie was displaying** (throwing objects, threatening self-harm and/or harm to others, etc.), **what coping skills** (identified in her BSP) **were offered** and **how Natelie responded** to the coping skills in Natelie's **behavior log** located in her home **daily**.

This documentation will be reviewed **monthly** by the agency RN, Natelie's BCBA, and Support Coordinator.

6) Assurance of No Harm

1. What risks were considered to determine the intervention's degree of harm?
2. Where is this documented?

Assurance of No Harm Example

This restriction is intended to cause no harm to Natalie.

Natalie's planning team considered the physical, emotional, and social risks involved in the restriction during her annual plan meeting on 1.15.25.

Natalie's planning team believes without this restriction in place, Natalie would continue to harm herself and/or others.

This is noted in Natalie's PCSP and consented to on the attached consent form.

7) Criteria for Restoration



1. Describe what it will take for the restriction to be lifted / how the individual and team will know when the restrictive support is no longer needed or could be reduced in intensity/frequency.
2. The criterion needs to be in specific observable and measurable terms (i.e., if individual has three consecutive months of no attempts to elope, chimes will be removed from the exterior door).

Criteria for Restoration Example

If Natalie can go 6 consecutive months without throwing objects and/or threatening to harm herself and/or others, butter knives will be left unlocked.

If Natalie can go another 3 consecutive months without displaying these behaviors, blunt point scissors will be left unlocked.

If Natalie can go another 3 consecutive months without displaying these behaviors and using the butter knives and blunt point scissors without incident, then one steak knife will be left unlocked.

This restriction will continue to be faded by leaving scissors and more kitchen knives unlocked until Natalie has full access to all scissors and kitchen knives.

8) Consent

1. Were all risks of the restrictive interventions reviewed with the person/ guardian as part of the Consent process?
2. Did the person/guardian have an opportunity to ask questions?
3. Was the person/guardian informed that they may withdraw consent at any time?
4. Where is the Consent documentation?

Consent Example



The risks were discussed on 12.15.25 within the assurance of no harm section and both Natalie and her guardian expressed an understanding of the restriction and consent to the restriction.

Both Natalie and her guardian were given the opportunity to ask any questions.

Natalie and her guardian were informed that they can discuss the restriction with Natalie's planning team as well as withdraw consent at any time.

The consent for the restriction is signed and attached to the PCSP.

9) Schedule of Review

1. Include established time limits for periodic reviews to determine if the modification is still necessary or can be terminated.
2. State how often team will submit plan to Due Process Committee for review (minimum is annually).

Schedule of Review Example



Natalie's planning team will review the restriction and any progress or lack of progress that Natalie has made at least monthly.

Information will be referred to the Due Process Review Committee at least on an annual basis.

10) Notice of Right of Due Process

1. Document that the individual and the guardian are aware of the restrictions, were part of the planning process to develop interventions, know they have a right to due process, and have information on what to do if they do not agree with the restrictions or interventions.
2. The Signed authorization page (can either be signed by guardian only or can be signed by guardian and individual).

Notice of Right of Due Process Example



Natalie and her guardian were both part of the planning process for this restriction including developing interventions, strategies for success, and parameters for lifting the restriction.

Each understands that they have the right to due process, the right to revoke their consent to the restriction and the right to appeal including how to proceed should they not wish to consent.

If Natalie and/or her guardian wish to appeal, they may contact the Office of Constituent Services is 800-364-9687 or constituentsvcs@dmh.mo.gov.

- What least restrictive interventions have been tried and determined to be unsuccessful?
- There isn't a black and white list of what is/isn't a restriction.
- How does this restriction affect the housemate(s)?

Are These Rights Restrictions?

1:1 Line of Sight Supervision:

Yes – if required for behavior management even in areas where privacy is expected such as bathroom or bedroom in order to manage behavior that cause self-harm or harm to others.

No – if an individual requires staff to be present even in areas where privacy is expected such as bathroom or bedroom to help with ADLs.

Are These Rights Restrictions?

Remote Supports:

No – Waiver service of Remote Supports is a stand-alone service and like any other waiver service is not a restrictive support by nature.

Individual Rights Consultation



- 👤 The Quality Programs Specialist (QPS) provides Individual Rights Consultation (IRC) as requested.
- 👤 An IRC can be made via [IRC Request](#).
- 👤 Information about the [IRC Procedure](#) as well as the [Individual Rights Consultation Process Map](#) can be found on the [DMH webpage](#) under Governance.

Procedures & Process Maps




- 👤 To access Procedures and Process Maps:
 - 👤 On the www.dmh.mo.gov home page, click on Developmental Disabilities
 - 👤 Scroll to Popular Sections at the bottom of the webpage
 - 👤 Under the Administration tab, scroll to the right and click on Governance
 - 👤 On the Governance page, expand the Division of Developmental Disabilities Policy and Procedure ribbon
 - 👤 Scroll to the bottom to find the procedures for Due Process Review, Emergent Due Process Reviews, and Individual Rights Consultation as well as the DP and IRC Process Maps

What Requires Due Process?

Use of Limited Practices

- Medical Interventions
- Physical Restraints
- Environmental Restraints
- Protective Devices
- Time Out Exclusion(ary)

Limitations used

-  In place of habilitation
-  For Convenience
-  To promote caregiver or guardian values

Limitations on Rights

- Privacy
- Food
- Clothing
- Mail and Phone
- Family and Friends
- Money
- Possessions
- Recreation & Leisure Activities
- Access to Community

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Prohibited and Limited Practices

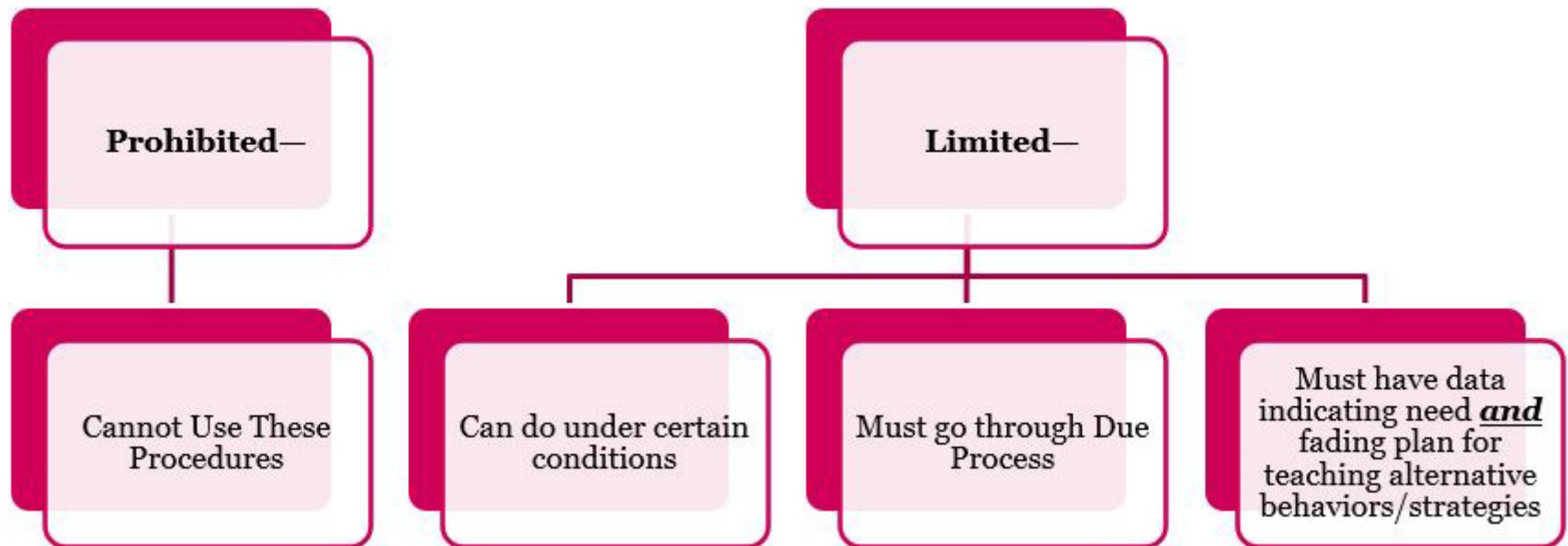
Dr. Timothy Weil

**Taking Steps at Supporting Individuals
Rights and Freedoms**

What We Are Attempting

- 👤 First, we've realized that there are definitions across DMH Rules and Regs on what is prohibited, restricted/limited, or neither and we are attempting to align.
- 👤 Clarifying that Prohibited Practices are truly **prohibited**. That is, there are no contexts in which a practice on this list may end up being permitted in waiver services.
- 👤 Provide short list of Limited Practices that are likely to come to DPRC and/or add clarity away from Prohibited Practices.
- 👤 Rename previous “Restricted” category—which are those things that may be permitted given specific criteria—to “Limited” for greater clarity.

Two Categories



Limited Practices

- 👤 This is a short list of practices that would go through DPRC; there are other's
- 👤 These were selected as obvious and prevalent restrictions
- 👤 Also selected to further draw differences from Prohibited Practices

Limited Practices

- 🧑 Environmental Restraints
- 🧑 Medical Intervention
- 🧑 Physical Restraints
- 🧑 Protective Devices
- 🧑 Time Out-Exclusion(ary)

Environmental Restraints

A practice that limits a person's access to their environment, activities, and things in their environment in efforts to manage behavior.

Environmental Restraints

Physical Barriers

- Door locks, Drawer/Cabinet locks
- Outlet covers

Restricted Access

- Limited access to certain areas inside or outside
- Verbal or blocked

Limited access to certain things/activities

- Verbal or blocked
- Moving a walker out of reach
- Wheelchair locks that Individual cannot undo

A practice that limits a person's access to their environment, activities, and things in their environment in efforts to manage behavior.

Medical Intervention

A PRN medication prescribed to treat identified target behaviors associated with a diagnosed medical or psychiatric condition.

A medical intervention is intended to have a calming effect enabling the individual to implement coping strategies.

CSR requires reduction strategies included in ISP/BSP.

Medical Intervention

- Individual is prescribed anti-anxiety medication and has PRN order to administered as needed through day.

A PRN medication prescribed to treat identified target behaviors associated with a diagnosed medical or psychiatric condition.

A medical intervention is intended to have a calming effect enabling the individual to implement coping strategies.

Physical Restraints

Manually holding or restraining all or part of an individual's body in a way that restricts the individual's free movement.

This does not include briefly holding, without undue force, an individual to calm them, or holding an individual's hand to escort them safely from one area to another.

Never Prone or Supine.

Protective Devices

Equipment used to protect people from physical risk or injury.

For purposes of behavior management protective devices include equipment designed through a therapeutic program to limit an individual's ability to harm themselves.

Use of protective devices for behavior management may also require a crisis safety plan and/or a BSP if the behavior requiring the intervention is dangerous.

Protective Devices

Examples—All are due to behavioral issues

- Arm splints
- Helmets
- Eye protection
- Bedrails
- Gloves
- Wristwraps

Equipment used to protect people from physical risk or injury.

Protective Devices

Examples—Not used for behavioral issues.
NOT requiring DPRC

- Gaitbelt
- Helmets (seizures)
- Bedrails/wedges (medical)
- Wraps used to cover open wounds (medical)

Equipment used to protect people from
physical risk or injury.

Time Out Exclusionary

The temporary exclusion of an individual from access to reinforcement in which, contingent upon the individual's undesirable behavior(s), the individual is excluded from the potentially reinforcing situation but remains in the same/close area with others present.

Time Out-Exclusion(ary) *must be included in a Behavior Support Plan overseen by a Licensed Behavior Analyst.*

Time Out Exclusionary

- Separating an Individual within the room from electronics due to destructive behavior for short period of time till calm.
- Separating Individual from others due to problem behaviors to another room/area where they are not alone.

The temporary exclusion of an individual from access to reinforcement in which, contingent upon the individual's undesirable behavior(s), the individual is excluded from the potentially reinforcing situation but remains in the same/close area with others present.

Prohibited Practices

- 👤 These practices cannot be implemented in waiver services.
- 👤 If observed to have occurred must connect with the BSRC at: BSRC@dmh.mo.gov.

Prohibited Practices

- 👤 Aversive Stimulation/Conditioning
- 👤 Chemical Restraints
- 👤 Corporal Punishment
- 👤 Mechanical Restraints
- 👤 Overcorrection
- 👤 Prone & Supine Restraints
- 👤 Punishment
- 👤 Response Cost
- 👤 Seclusion/Seclusion Time Out
- 👤 Including Enclosed Beds in Waiver Services



Aversive Stimulation or Conditioning

Means the application of a stimulus that is unpleasant to the individual.

Aversive Stimulation or Conditioning

- Presenting something very unpleasant like a terrible smell, or sound.
- Coercive interactions
- Threats
- Intimidation
- Gaslighting

Means the application of a stimulus that is unpleasant to the individual. Aversive stimulation is prohibited.

Chemical Restraints

A drug or medication that is used to control a person's behavior or restrict their movement and is not a standard treatment for their psychiatric or medical condition.

Chemical restraints are intended to cause immediate sedation or sleep to control a person engaging in aggressive or unsafe behaviors causing injury.

Chemical Restraints

- Any medication, not prescribed for medical/psychiatric issue, and, that is meant to immediately impact behavior

A drug or medication that is used to control a person's behavior or restrict their movement and is not a standard treatment for their psychiatric or medical condition.

Chemical restraints are intended to cause immediate sedation or sleep to control a person engaging in aggressive or unsafe behaviors causing injury.

Corporal Punishment

Means use of physical force to cause pain or discomfort to correct behavior.

Corporal Punishment

- Grabbing firmly
- Yelling at
- Removing privileges
- Push, Pull, Pinch
- Hit, or Threaten Hit

Means use of physical force to cause pain or discomfort to correct behavior.

Mechanical Restraints

Any device attached to a person's body they cannot remove and restricts freedom of movement or normal access to their body for behavior control.

Often attached to a stationary object such as a table or chair but may also wrap around an individuals' body to control movement of arms and legs.

****Does not include the use of devices, materials, or equipment that are authorized for medical/behavioral procedures and purposes in a manner that is consistent with federal or state licensing or certification requirements.**

Mechanical Restraints

Examples

- Posey straps/belts or Soft Restraints (fabric)
- Handcuffs, Arm/Leg restraints
- Vests and/or Full Jacket Restraints
- Straps and/or Harnesses Designed to Prohibit Behavioral Aggressions

Any device attached to a person's body they cannot remove and restricts freedom of movement or normal access to their body for behavior control.

Often attached to a stationary object such as a table or chair but may also wrap around an individuals' body to control movement of arms and legs.

Mechanical Restraints

Non-Examples

- Gait Belts
- Car/Bus Seatbelt Harness for Safety
- Door, Drawer, Cabinet, Refrigerator Locks
- Wheelchair Harness for Body Supports

Any device attached to a person's body they cannot remove and restricts freedom of movement or normal access to their body for behavior control.

Often attached to a stationary object such as a table or chair but may also wrap around an individuals' body to control movement of arms and legs.

Overcorrection

Requiring an individual to repeatedly perform a task consequently for having done something wrong.

Overcorrection

- Individual clears a countertop; all flat surfaces in room are cleared and Individual is required to correct all instances.
- Individual messes up clothes in room; individual is required to clean up whole room and their bathroom.

Requiring an individual to repeatedly perform a task consequently for having done something wrong.

Prone & Supine Restraints

Prone- a technique that involves restraining a person in a face down position.

Supine-a technique that involves restraining a person on their back.

Punishment

Addition or removal of a stimulus following a behavior that results in a decrease in future probability of the behavior.

Otherwise said as:

Presenting or taking away things that are meant to punish a person for their behavior. Usually aversive and coercive.

Punishment

- Yelling at an individual; Reprimanding
- Hurting or attempting to hurt an individual
- Inflicting pain in any way
- Taking preferred things away
- “Grounding” individual
- Withholding something earned
- Fines-monetary or property

Otherwise said as:

Presenting or taking away things that are meant to punish a person for their behavior. Usually aversive and coercive.

Response Cost

Removal of an individual's personal property or earned items contingent on problematic behavior.

Response Cost

- Taking away stickers/tokens that the Individual earned, which are used to purchase back up items/access
- Removing choice making opportunities
- Taking away screen time
- Taking away preferred items/activities/foods

Removal of an individual's personal property or earned items contingent on problematic behavior.

Seclusion/ Seclusion Time Out

The involuntary confinement and isolation of an individual alone in a room from which the individual is physically prevented from having contact with others or leaving.

Seclusion/ Seclusion Time Out

Exemplar

- Removing Individual to a room they are not able to leave due to barrier/door closed and/or locked.

Non-Exemplar

- Separating an individual from a reinforcing event/activity within same room.

Including Enclosed Beds in Waiver Services

Enclosed beds are beds that are barred or use material to enclose an individual within the bed. They may or may not have an enclosed top.

While these may be purchased at personal cost, waiver services are not permitted to utilize the enclosed bed.

Including Enclosed Beds in Waiver Services

- Requiring respite to aide in ambulation in and out of enclosed bed.
- Delivery of some therapy in the enclosed bed.
- Any waiver provider who may engage the Individual in the home setting where they are required to utilize the enclosed bed.

Enclosed beds are beds that are barred or use material to enclose an individual within the bed. They may or may not have an enclosed top.

Prohibited Practices

Aversive Stimulation or Conditioning

Chemical Restraints

Corporal Punishment

Mechanical Restraints

Overcorrection

Prone & Supine Restraints

Punishment

Response Cost

Seclusion/Seclusion Time Out

Enclosed Beds

Limited Practices

Medical Intervention

Physical Restraints


Environmental Restraints

Protective Devices

*Time Out Exclusion(ary)

Upcoming Training

Referral Packet Workshops

 Kansas City: March 17, 2025 10:00am - 2:00pm

 Central: April 10, 2025 10:00am - 2:00pm

 Southeast: April 17, 2025 10:00am - 2:00pm




 St. Louis: April 24, 2025 10:00am - 2:00pm

 Springfield: April 30, 2025 10:00am - 2:00pm

Tools

-  List of Prohibited & Limited Practices
-  Definition of Terms

Coming Soon

-  Case Study to Highlight Discrimination Points
-  Sample Referral Packet
-  Frequently Asked Questions (FAQs)

Help Us Improve



- 👤 To provide feedback on due process and Individual Rights Consultation email dddueprocesscommittee@dmh.mo.gov
- 👤 If you want your feedback to be anonymous, please send an email to ddmail@dmh.mo.gov

All Feedback Welcome