104 CMR 27.10(7) is stricken and replaced with the following:

(7) Behavioral Support and Restrictions on Negative Consequences.

(a) Behavioral Support. Facilities shall provide a therapeutic milieu with physical space and personal interactions that promote patients' self-esteem and sense of mastery. Facilities shall only use behavioral interventions that are positive and supportive of each patient's behavioral needs, background, and strengths. Such interventions shall:

1. consider information gained from the development of the individual crisis prevention plan pursuant to 104 CMR 27.12(3), if the facility has a Class IX license;

2. take into account triggers that cause agitation or distress in the patient and strategies to reduce such agitation or distress, if the facility does not have a Class IX license;

3. focus treatment planning on the problems that are preventing the patient from moving to a less restrictive setting;

4. identify problematic behaviors and/or skill deficits in a supportive, collaborative effort with the patient;

5. provide opportunities to promote self-calming;

6. use individualized positive reinforcers, rewards and systems to advance privileges;

7. assist the patient in developing self-regulatory capacities that minimize the need for others managing him or her;

8. use educational approaches that include achievable goals and opportunities for practicing new skills, positive communication and relationship building.

(b) Restrictions on Use of Negative Consequences .

1. A facility shall limit the use of behavioral interventions that rely on negative consequences, including restrictions or sanctions such as loss of privilege level or separation from the group or activity.

2. Any negative consequences shall be fully described in the patient's treatment plan.

3. Negative consequences may only be included in a treatment plan after positive behavioral supports have been attempted and have failed. When negative consequence are included in a treatment plan, a facility shall document such prior behavioral support efforts.

4. Behavioral consequences that involve corporal punishment, infliction of pain, physical discomfort, or deprivation of food or sleep may not be used.

5. Restraint or seclusion, as defined in 104 CMR 27.12, may not be used as part of behavioral interventions.

(c) General Requirements for the Use of Behavioral Interventions.



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1. The treatment plan for each patient for whom behavioral interventions are to be used shall be developed with the participation of the patient and his or her legally authorized representative, shall include specific, individualized behavioral interventions, and shall be subject to the informed consent requirements of 104 CMR 27.10(1)(a).

2. Patient-specific behavior plans shall be re-evaluated on a regular basis and adjusted as necessary, such as when improvement goals are met or not met.

3. All staff who may participate in implementing behavioral interventions shall receive training in their use during orientation, which shall be no later than one month after hiring, and annual retraining thereafter.

4. A facility shall document and maintain data on its use of behavioral supports and negative consequences and evaluate such data to assess their efficacy and to make adjustments when indicated. A facility that uses restraint or seclusion shall use such data to identify factors that may be precursors to episodes of restraint or seclusion, and make efforts to address them.

(d) Facility- or Unit-Wide Programs. A facility that employs a facility- or unit-wide behavior program shall, in addition to complying with all other requirements of 104 CMR 27.10(7):

a. describe in writing and have available for inspection by the Commissioner or designee the range of interventions that may be used in the program;

b. upon admission, provide patients and their legally authorized representatives with a copy of the facility's behavior program;

c. include sufficient flexibility to accommodate the individual needs and strengths of patients;

d. submit the plan to the facility's human rights officer and, where applicable, the human rights committee for review.



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