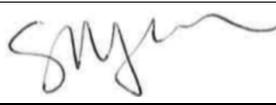




## Use of Restrictive Measures Policy & Procedure

<b>Affected LCI Units:</b> Care Management, Quality & Member Supports, Network Relations	<b>Developed Date:</b> March 2013
<b>Policy Number:</b> MSUP0007	<b>Last LCI Review Date:</b> October 2020
<b>Last DHS Approval:</b> December 2020	<b>Policy Owner:</b> Member Supports
<b>Authorization &amp; Date:</b>  3/18/13	

**Purpose:** The purpose of this policy is to outline Lakeland Care Inc's (LCI) expectations to its employees, subcontractors, and community partners as it relates to the use of restrictive measures.

**Scope:** This policy applies to LCI members and all service providers contracted with LCI. These requirements apply to requests for use of restrictive measures for all members; in all target groups; living in community settings. These requirements apply to any individual/provider who receives payment from LCI to provide direct support services to a member. This does not apply to unpaid caregivers. Inappropriate use of restrictive measures by unpaid caregivers may be considered abuse/neglect under Wis. Statute and should be reported as appropriate.

### Definitions:

**Abuse:** as defined by Wis. Stats. s. 46.90(1)(a), means any of the following:

- Physical Abuse:** intentional or reckless infliction of physical pain or injury, illness, or any impairment of physical condition.
- Emotional Abuse:** language or behavior that serves no legitimate purpose and is intended to be intimidating, humiliating, threatening, frightening, or otherwise harassing, and that does or reasonable could intimidate, humiliate, threaten, frighten, or otherwise harass the individual to whom the conduct or language is directed.
- Sexual Abuse:** a violation of criminal assault law, Wis. Stats. 940.225 (1), (2), (3), or (3m).
- Treatment without consent:** the administration of medication to an individual who has not provided informed consent, or the performance of psychosurgery, electroconvulsive therapy, or experimental research on an individual who has not provided informed consent, with the knowledge that no lawful authority exists for the administration or performance.
- Unreasonable confinement or restraint:** the intentional and unreasonable confinement of an individual in a locked room, involuntary separation of an individual from his/her living area, use on an individual of physical restraining devices, or the provision of unnecessary or excessive medication to an individual, but does not include the use of these methods or devices in entities regulated by the department if the methods or devices are employed in conformance with the state and federal standards governing confinement and restraint.

**Behavior Supports (Known as Positive Behavior Supports):** Components of a member's environment intended to encourage behaviors that replace challenging or dangerous behaviors and help the member attain his/her desired quality of life. Positive behavior supports may include but are not limited to: a Positive Behavior Support Plan (PBSP); adaptive communication strategies; counseling; occupational therapy; schedule modifications; expanding relationship opportunities; improving the quality of living arrangements; other clinical interventions, and other components of support aimed at improving pro-social behavior agreed upon by the member.

**Behavior Support Plan (BSP) (Known as Positive Behavior Support Plan [PBSP]):**

A behavior support plan is a written document, specific to the individual, intended to inform direct support staff how to assist the individual in building prosocial and adaptive behaviors. Behavior plans also include direction on how to utilize other supports, strategies, and interventions in order to ensure safety and to decrease the individual's challenging behavior. For individuals with restrictive measures, the behavior support plan must include the following:

1. Information about the use of the restrictive interventions;
2. 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 individual from the measure;
3. The maximum duration for the use of the measure;
4. The methods or strategies the team will employ to attempt to reduce or eliminate the restrictive measure.

For individuals who have a behavior support plan, LCI must reference the plan within the member-centered plan and save it to the electronic member record.

**Behavior Support Team (Known as Team):** All relevant parties needed to develop and implement the least restrictive, most member-centered behavior intervention and behavior support plans. The Behavior Support Team must include at a minimum: the member and guardian/legal representative where applicable, LCI Care Manager and Registered Nurse, the Provider agency Director or designee, and primary physician or psychologist (when restrictive measures are being proposed).

**Behavioral Request:** This request is used to obtain approval for use of a measure that is necessary to ensure safety, in response to behaviors which put members or others at imminent risk of serious harm. If the measure is necessary to act as a form of behavioral control during a medical procedure or while a medical condition exists, this must also be submitted as a behavioral request. All behavioral requests must include a behavior support plan.

**Challenging or Dangerous Behavior:** Behaviors that place the member or others at risk. Restrictive measures may only be used when a member's behavior puts that member or others at imminent risk of serious physical harm.

**De-escalation Strategies:** Strategies direct support staff use to help an individual return to a baseline, adaptive, or calm state. Strategies may include:

1. Staff adopting a caring but neutral position.
2. Remaining calm and using a calm tone of voice.
3. Paying attention to the individual; listening, focusing on feelings, and validating them; empathizing; being nonjudgmental (in both body and verbal language).
4. Reminding the individual of potential consequences to their behaviors and that he or she is in control.
5. Staff working to reduce environmental stressors.
6. Trying to determine what he or she wants and offering solutions or alternatives.
7. Drawing the individual into a more pleasant, positive, and grounded state.

**Emergency:** An emergency, as it relates to restrictive measures, means an unanticipated situation has occurred where a member suddenly engages in dangerous behavior, placing the member or others at imminent, significant risk of physical injury, or exhibits signs known to be precursors of such behavior for the member. This may include the appearance of behavior that has not happened for years or has never been known to have occurred before, or it could include current behaviors that suddenly and unexpectedly have escalated to an intensity that has not been seen before.

Revision History: 4/2020, 10/2020

**Incident Management System:** Manages incidents occurring at the member and provider levels, and includes the activities of incident discovery, report, response, investigation, remediation, and data collection and analysis in order to a) assure member health and safety; b) reduce member incident risk(s), and; c) enable development of strategies to prevent future incident occurrence(s).

**Interdisciplinary Team (IDT):** The member and individuals identified by LCI to provide care management services to members. The full IDT always includes the member and other people specified by the member, as well as IDT staff. IDT staff refers to the social service coordinator, registered nurse, and any other staff who are assigned or contracted by LCI to participate in the IDT and is meant to distinguish those staff from the full IDT. IDT staff will include at a minimum: (1) A social service coordinator, required to be a social worker certified in Wisconsin or have a minimum of a four-year bachelor's degree in human services area or four-year bachelor's degree in any other area with a minimum of three years' experience in social service care management or related social service experience with persons in LCI's target population; (2) Wisconsin Licensed Registered Nurse; (3) any additional persons with specialized expertise for assessment, consultation, ongoing coordination efforts and other assistance as needed.

IDT staff will ensure that the member is at the center of the comprehensive assessment and member centered planning process. The member will have meaningful opportunity to participate throughout the care planning process, live as independent as possible, and take an active role in decision-making.

**Medical Request:** If a restrictive measure is necessary to ensure the safety of a member due to a medical procedure or condition, which is not related to a challenging and dangerous behavior (e.g. the medical condition is not caused by intentional behavior or an intentional behavior is not occurring because of a medical condition) this must be submitted as a medical request. All medical requests must include a plan/protocol for use of the measure(s). Restrictive measures used to complete medical procedures in a medical or dental office do not require LCI RM Committee nor DHS approval. The team must assess all mechanical supports to determine if it is a medical restrictive measure; such devices may become restrictive measures and require approval if the use prevents or limits functional access to parts of their body, or limits intentional, controlled, and purposeful movements or mobility and cannot easily be removed by the member.

**Neglect:** The failure of a caregiver, as evidenced by an act, omission, or course of conduct, to endeavor to secure or maintain adequate care, services, or supervision for an individual, including food, clothing, shelter, or physical or mental health care, and creating significant risk or danger to the individual's physical or mental health. "Neglect" does not include a decision that is made to not seek medical care for an individual, if that decision is consistent with the individual's previously executed declaration or do-not-resuscitate order under ch. 154, Wis. Stats, a power of attorney for health care under ch. 155, Wis. Stats., or as otherwise authorized by law.

**Restrictive Measure:** The term used to encompass any type of manual restraint, isolation, seclusion, protective equipment, medical procedure restraint, or restraint to allow healing as defined in this policy/procedure and DHS RM Guidelines and Standards. The following are types of Restrictive Measures:

1. **Isolation:** The involuntary physical or social separation of a member from others by the actions or direction of staff, contingent upon behavior. For the purposes of this policy, 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 member's presence in the

room is completely voluntary and there are no adverse consequences if the member refuses to go to the room.

2. **Isolation by staff withdrawal:** Isolation by staff withdrawal occurs in situations where, for safety reasons, the support team determines staff should withdraw from the individual due to the presence of behaviors that present imminent risk of harm to staff. When staff withdraws, they retreat to a predesignated room or area for a specific amount time to allow the individual to calm. It is considered to be isolation by staff withdrawal when the individual is either unlikely to follow, or unable to follow, or unable to reach staff after they have retreated to the designated area. Typically, this involves staff locking the door between them and the individual, but not always. If staff go into the office and close the door without locking it because they know the individual would never try to enter the staff office, this would also be isolation by staff withdrawal. If staff goes into the basement and leaves the door open, knowing the individual would never try to follow them, this would also constitute isolation by staff withdrawal. See requirements in Policy.
3. **Manual Restraint:** Includes physical holds and escorts, involves one or more people holding the limbs or other parts of the body of another member in order to restrict or prevent the member's movement. For the purpose of this policy, the following actions are not considered manual restraints: Holding a member's limbs or body to provide support for the achieving of functional body positions and equilibrium, such as supporting someone to walk, achieving a sitting or standing position; holding a member's limbs or body to prevent him or her from accidentally falling; use of passive self-protection and or physical redirection in response to unanticipated acting out or aggressive behavior; use of graduated guidance as part of an approved intervention.
4. **Mechanical Restraint:** Involves the application of a device to any part of a member'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 member.
5. **Mechanical Support:** A mechanical support is any apparatus used to provide proper alignment of an individual's body or to help an individual maintain their balance. Mechanical supports include but are not limited to, postural supports, position devices, and orthopedic devices. The team must utilize a qualified professional to design a plan for use of mechanical supports in accordance with principles of good body mechanics, with concern for circulation, and with allowance for change in position. Mechanical supports must not impair or inhibit visual or auditory capabilities or prevent or impair speech or other methods of communication.
6. **Medical Procedure Restraint:** Medical procedure restraints (device or procedure that restricts voluntary movement or access to any part of a member's body and cannot easily be removed by the member) utilized while under the care of medical professionals in a medical or dental office or while receiving treatment in a clinic or hospital, do not need to be approved by DHS as long as the medical provider is directing staff who accompanies the individual. LCI must submit a request to DHS for approval of a medical procedure restraint when the procedure is occurring in the individual's home, day program, or other nonmedical setting. Staff may only use medical procedure restraints when necessary to accomplish a specific diagnostic or therapeutic procedure ordered by a medical professional. The use of the restraint must only occur for the minimum duration necessary to complete the procedure. As stated earlier in this document, if the medical procedure restraint is necessary as a form of behavioral control, LCI must submit a behavioral request.
7. **Protective Equipment:** Protective equipment includes devices that restrict movement or limit access to areas of one's body. Protective equipment refers to devices applied to any part of an individual's body to prevent tissue damage or other physical harm and the individual cannot easily remove the device. Protective equipment must not impair or inhibit visual or auditory capabilities or prevent or impair speech or other methods of communication. *Protective equipment includes, but is not limited to:*
  - a) Helmets, with or without face guards;

- b) Gloves or mitts;
- c) Wheelchair seatbelts;
- d) Shower chair seatbelts;
- e) Bedrails;
- f) Wrist cuffs;
- g) Ankle straps;
- h) Goggles;
- i) Pads worn on the body;
- j) Clothing or adaptive equipment specially designed or modified to restrict access to a body part.

*DHS does not consider the following protective equipment devices to be restrictive measures:*

- a) Mechanical supports as defined in these guidelines.
  - b) Wheelchair seat belts or foot straps, bed rails, and other transportation safety devices such as stretcher belts intended to prevent an individual from accidentally falling or slipping during transport.
  - c) Motor vehicle seat belts or harnesses with buckle guards or similar devices in place to ensure a passenger is unable to remove the safety belt in a moving vehicle.
  - d) Professionally designed therapeutic devices to promote optimal motor functioning.
8. **Restraint:** Any device garment or physical hold that obstructs voluntary movement of a person's body or access to any part of the body and cannot be easily removed by the individual.
9. **Seclusion:** A form of isolation in which the member is physically set apart by staff from others through the use of locked doors equipped with a pressure-locking mechanism. Seclusion does not include the use of devices like "wander guards" or similar products that may also involve locking doors. The use of seclusion as a form of behavior modification or as a consequence for non-compliance is not allowed. Seclusion may only be used as a response to a behavior that involves an imminent risk of harm and for the shortest duration possibly to maintain safety. Examples of appropriate use of seclusion are to ensure safety of the individual and others due to prolonged physical aggression or to clear an area of harmful items, such as broken glass. The BSP must indicate the method used to safely transport a member to seclusion. See requirements in policy.

**Release Criteria:** Criteria specified in the behavior plan, which, once met, would result in the termination of the use of the specific restrictive measure for that incident. The criteria for release should identify cues that are unique to the individual for determining if he or she appears to be calm and is no longer exhibiting behavior that puts someone at imminent risk of harm. Upon release, staff must offer the individual the opportunity to move about. If appropriate to the situation, the staff should also give the individual the opportunity to have food and drink and to attend to their other needs. *The individual must be released:*

- 1. When the criteria outlined in the plan is met.
- 2. If the criteria for releasing the individual from isolation, seclusion, or protective equipment have not been met within 60 minutes of the first use of the restraint.
- 3. When the use of an approved manual restraint has lasted 15 continuous minutes.
- 4. When the individual's behavior has not been dangerous and he or she has been calm for five full minutes.
- 5. If there are any threats to the individual's health or well-being from use of the measure.

**Voluntary Movement:** Movements which are controlled by the member and are purposeful.

**Unplanned or unapproved use of Restrictive Measure:** The use of a restrictive measure that has not been approved during a situation that constitutes an emergency as defined above.

## **Policy:**

Lakeland Care, Inc. is committed to ensuring members have access to safe and respectful supports. It is LCI's belief that restrictive measures are the least desirable way to address dangerous or challenging behavior and will be considered only as an interim method of last resort, when less restrictive and less intrusive strategies, identified through a thoughtful and comprehensive behavior support plan, are proven ineffective. The use of restrictive measures with any LCI member outside an approved plan is prohibited.

LCI expects all IDT staff to ensure members are free from abuse, neglect, unreasonable confinement, restraint, and unapproved use of restrictive measures. IDT staff ensure members' safety in the above noted areas through assessment, thoughtful care plan development and ongoing monitoring of positive and behavioral support plans and member centered plans. In collaboration with LCI, providers are also responsible to meet the conditions necessary to assure member health and safety. LCI strives to support and maintain members' dignity through a careful partnership between LCI providers, members, natural supports, and LCI staff. IDT staff respect members' choice and preference(s) and will show consideration to members' experiences throughout the care planning process.

Behavior Support Plans must be created by the team, which consists of appropriate provider and LCI staff having direct knowledge of the member. It is the belief of LCI, that all behavior serves a purpose and function. It is imperative that the team conduct an assessment to determine the function of the behavior so that effective interventions and supports can be in place. LCI's Positive Behavioral Supports Policy and Procedure must be followed first.

When a Positive Behavioral Support Plan is not sufficient in ensuring the member's or other's health and safety, and all less restrictive support strategies and interventions have been attempted and proven ineffective, and the member's challenging and dangerous behavior, poses an immediate imminent danger to his/herself or other, the team may need to consider a Behavior Support Plan including the use of restrictive measures and apply for LCI and DHS approval. This plan must include: a description of the behavior the plan addresses, the proposed strategies including type of measure and duration of use, treatment rationale including a description of the risks and benefits of the proposed interventions, the provider and placing agency, identity of staff who may implement and/or authorize the implementation of the measure, the plan for staff training prior to implementing the measure, and the plan for monitoring, documenting use, measuring progress, and reducing/eliminating the measure.

LCI expects its providers to ensure training and education to its staff on the identification and applicability of restrictive measures, including, but not limited to requirements outlined in this policy.

**Prohibited Practices:** The following maneuvers, techniques, or procedures may not be used in any circumstance:

1. Any maneuver or technique that does not give adequate attention and care to protection of the head.
2. Any maneuver or technique that places pressure or weight on the chest, lungs, sternum, diaphragm, back, or abdomen.
3. Any maneuver or technique that places pressure, weight, or leverage on the neck or throat, on any artery, or on the back of the head or neck, or that otherwise obstructs or restricts the circulation of blood or obstructs an airway, such as straddling or sitting on the torso, or any type of choke hold.
4. Any maneuver or technique that involves pushing into a member's mouth, nose, or eyes.
5. Any maneuver or technique that utilizes pain to obtain compliance or control, including punching, hitting, hyperextension of joints, or extended use of pressure points.

Revision History: 4/2020, 10/2020

6. Any maneuver or technique that forcibly takes a member from a standing position to a horizontal (prone or supine) position or to a seated position on the floor.
7. Any maneuver or technique that creates a motion causing forcible impact on the member's head or body, or forcibly pushes a member against a hard surface.
8. The use of seclusion where the door to the room would remain locked without someone having to remain present to apply some type of constant pressure or control to the locking mechanism.

**Requirements for Isolation by Staff Withdrawal:**

While staff have retreated to the area the individual is unwilling or unable to access, they must be able to assure the safety of the individual through an appropriate method of monitoring (such as windows, auditory monitoring, video monitoring, ceiling-mounted mirrors, peephole in door). If, at any time, staff is not able to monitor the individual directly, staff must leave the secure area to ascertain safety. When submitting request for approval of the use of isolation by staff withdrawal, a diagram of the home's layout or images of the home must be provided for the review panel to ascertain how much of the home can be observed from the area staff is isolating in. Consideration must also be given to environmental risks to the individual, such as potential for self-harm or elopement. Approval will take into consideration whether the individual shares supports and any potential impact this would have on others.

During isolation by staff withdrawal, the individual will have access to most, if not all, of the home while staff is in another area. If a behavior plan states staff need to move away from an individual or give the individual space in response to a behavior, it must clearly define giving space. (For example, is staff supposed to simply move a few feet away from the individual, yet remain in the same room?) These details are necessary to ensure applications to use isolation by staff withdrawal are clear and staff clearly knows the expectations in these types of situations.

**Requirements for Seclusion:**

Seclusion will only be permitted with the use of a pressure-locking mechanism that requires the constant manual application of some form of pressure to maintain the locked condition. Locking an individual in any room where the door would or could stay locked without constant pressure will not be permitted under any circumstance. Other requirements around the use of seclusion include continuous visual monitoring, safety precautions specific to the individual's needs (non-breakable windows, recessed lighting, adequate ventilation, padded walls or floors), and adequate room size.

When LCI submits a request to use seclusion, information should be provided as to whether it is a newly constructed seclusion room or has previously been inspected and approved. The Bureau of Adult Quality and Oversight (BAQO) and Bureau of Adult Programs and Policy (BAPP) requires inspection and approval of newly constructed seclusion rooms by the DHS Restrictive Measures Coordinator, or a designee, prior to use. LCI must arrange with the Restrictive Measures Coordinator, or designee, to travel to the home and complete the inspection prior to the use of the new seclusion room. The minimum acceptable standards for a seclusion room are:

1. The room must be at least the size of a small bedroom so there is sufficient space for the individual to move.
2. Features are in place to allow staff to engage in continuous visual monitoring of an individual in the room, such as an observation window with ceiling-mounted mirrors or video cameras.
3. The room must have adequate ventilation, heating, and cooling.

4. The locking mechanism must be a pressure-locking device, such as magnetic locks or another mechanical device that requires the continual presence of support staff to apply pressure to keep the door lock engaged.
5. Padding of the walls and floors is required in the room if the individual is likely to engage in self-harm (such as head-banging or hitting walls) to the extent that such behavior could cause significant injury if the padding was not present.
6. There must be efforts to ensure the individual would not be able to reach or damage any light fixtures in the room (such as recessed lighting or high ceilings).
7. There must be protective covering over any electrical outlets in the room.
8. There must be protective covering or specialized windows in place to ensure the individual would not be able to break any windows in the room.
9. If a mirror is located in the room to ensure staff can see all areas of it, the mirror must be made of a non-breakable material or have protective covering around it to prevent the individual from being able to break the mirror

**LCI Restrictive Measures Review Committee (RMRC):** The LCI RMRC will consist of a minimum of ten members. The RMRC will be comprised of LCI employees who have clinical expertise in supporting members. The following LCI positions will be considered for inclusion on the RMRC: Care Manager, RN Care Manager, CM Supervisor, Regional Manager, Care Management Specialist, Member Supports Specialist, Member Supports Lead (MSL), Provider Compliance Specialist, Provider Specialist, Quality Specialist, Network Relations Leadership, and Member Supports Manager (MSM). The MSL will be LCI Primary Restrictive Measures Lead; and the MSM will be secondary.

All new application requests for the use of restrictive measures, unless the request is expedited, will be reviewed by a representative from Care Management, Quality/Member Supports, and Network Relations whenever possible. All subsequent restrictive measures applications and expedited reviews are reviewed by a subset of RMRC members, which serve on a rotating basis. The RMRC and other internal or external consultants, as appropriate, will review any proposed or initial behavior plan, which includes the provision of restrictive measures. The committee must either approve the proposal as submitted, approve the proposal with conditions, request additional information, or deny the proposal. Decisions will be in writing, identify the measures separately, and describe reasons for the return or denial, include any conditions of approval along with adequate descriptions of these conditions. The MSM or the MSL, as designated by LCI, will sign notifications. Denials will also offer the individual/legal decision-maker the right to grieve this decision. Communication and guidance will be offered to the provider on any revisions that could be made to remedy the defects in a returned or denied application. The RMRC must approve the request before LCI submits the request to DHS. The RMRC will report all activities to the Quality and Member Supports Director and LCI's Quality Management Program.

**Training:** LCI staff are trained and oriented on the Adult Protective Service and Elder Abuse and Neglect systems, the requirements on reporting and responding to complaints, allegations and/or direct observations, and the relevant elements of the Wisconsin Guardianship Statute (Ch. 54). The reporting process will be outlined through a Memorandum of Understanding specific to each county served by LCI.

IDT staff will be trained at least every three years on the Restrictive Measures Policy and Procedure. Upon hire, IDT staff will be trained on LCI Restrictive Measures Policy and Procedure during orientation. LCI Training and Development Department tracks all employee training.

Revision History: 4/2020, 10/2020

LCI RMRC members are trained on Restrictive Measures Policy and Procedure upon starting with the committee by the LCI RM Lead or LCI back-up RM Lead.

LCI RMRC ensures that RM applications include the provision of at least annual training by the provider to their staff regarding the measures contained within the application.

All staff involved in the administration of restrictive measures must receive adequate training. Training must occur prior to implementing any restrictive measure, and at minimum, annually as noted above. Assurance of training of individuals involved in the administration of the RM is the responsibility of the team. Training must include proactive strategies to intervene at the first signs of tension to prevent escalation. Information about how to use specific restrictive measure techniques or devices properly and how to inspect the device or equipment must be included in training. A specific training curriculum is not required but may be requested from teams to show the qualifications of the individuals conducting the training of provider staff.

LCI's Service Provider Contract outlines the necessary requirements relating to restrictive measures.

As needed, LCI Providers will be trained on Restrictive Measures related to the DHS contract, DHS Restrictive Measures Guidelines and Standards (RMGS), and LCI Policy and Procedure. This information can be found on the LCI website as well.

**Obtaining Approval prior to a member move:**

*Intermittent Treatment Programs (ITP):* LCI must have DHS approval for all use of restrictive measures prior to a member's discharge from an ITP. Planning for discharge must begin at the time of admission; and the team should discuss all restrictive measures that may be needed in a community setting.

*Change in Provider:* LCI must resubmit a restrictive measure request when a member moves or transitions to a new provider. Until DHS grants approval, the provider must complete an incident report for each use of the unapproved restrictive measure in any new setting.

**Reduction and Elimination Plans:**

All plans including the use of restrictive measures must include a reduction/elimination plan. Restrictive measures can not be a long-term solution for addressing dangerous or challenging behavior, but should instead be thought of as a temporary strategy the team will work towards eliminating as soon as possible. The reduction/elimination plan should include what alternative support methods the team will attempt to work towards that will reduce and/or eliminate the need for using restrictive measures. There should also be measurable goals or benchmarks that, once met, would lead the team to consider the elimination of the use of the measures.

**Procedure for Seeking Approval for Restrictive Measures:** In the event the IDT assesses and identifies the necessity for a restrictive measure, the following steps will be implemented.

1. IDT staff will work closely with the member, guardian/legal representative, provider(s), and other supports as indicated, to draft the application for the use of restrictive measures.
  - a. IDT staff will use the LCI Restrictive Measures Database Template for all restrictive measures applications. IDT staff will follow the template instructions to ensure information is completed accurately and thoroughly.
2. Upon completion of application materials, the IDT staff will forward all materials to the Care Management (CM) Supervisor for review.

3. The CM Supervisor will review the RM application and all supporting documentation, according to the criteria set forth in this policy and procedure.
  - a. If the CM Supervisor identifies the need for updates and/or clarification, the CM Supervisor will work with the IDT staff to revise the applicable areas.
  - b. If the CM Supervisor is in agreement with the plan, the CM Supervisor will submit the RM application to LCI's RM Lead.
4. The RM Lead will ensure that all necessary documentation is included in the application.
  - a. If there is missing documentation, the CM Supervisor will be notified and will collaborate with the IDT staff to promptly obtain necessary items.
5. Upon ensuring the application contains all necessary documentation, the RM Lead will disseminate the application to the RMRC.
  - a. Unless an expedited review is requested, the RMRC will complete the review within three weeks which includes offering relevant comments and feedback to the IDT staff.
  - b. Applications will be reviewed by the RMRC at regularly scheduled meetings or earlier when indicated, and not less than monthly.
  - c. Applications and decisions will be processed within 30 days of submission unless the RMRC requests additional clarification or information be obtained.
  - d. The RMRC will make decisions regarding all applications which include: approve, approve pending additional information, or denied. The RMRC may also provide feedback or pose additional questions regarding the application.
    - i. LCI's RM Lead will review all feedback offered by the RMRC prior to issuing it to the CM Supervisor and IDT staff for their consideration. Feedback from the RMRC to the IDT staff will always be provided in writing.
    - ii. If there is no feedback from the RMRC, the application will be approved or denied. The approval or denial will be given to the CM Supervisor and IDT staff in writing. IDT staff will be responsible to ensure a copy is given to the provider and member/legal representative and saved in the electronic member record.
6. Unless otherwise indicated, the IDT staff will be allowed two weeks to revise the application and incorporate the recommendations of the RMRC. The IDT staff will work with the Behavior Support Team.
7. Upon completion of the final edits of the application, the IDT staff shall forward the application to the CM Supervisor for review.
8. The CM Supervisor will review, assist with additional feedback if needed, and forward to the RM Lead.
9. The RM Lead will complete a final review of the application.
10. The RM Lead will enter the application into the Department of Health Services (DHS) RM Database and submit for DHS review. Applications for all target groups will be submitted to DHS for approval through the DHS Database:  
<https://ltcareies.forwardhealth.wi.gov/ltcareIES/secureLogin.html>.
11. DHS may offer feedback and request updates from the IDT staff. This feedback will be shared through the DHS RM Database and will be relayed through the LCI RM Lead.
12. DHS will notify the LCI RM Lead of application approval status via written letter. Approval will be granted for up to one year unless the request was expedited; in the case of an expedited review the RM will be approved for three months.
13. The RM Lead will provide copies of the letter to the CM Supervisor and IDT staff. IDT staff must ensure copies are given to the Provider and Member/Legal Representative and attached to the member record.
14. IDT staff will conduct a review of existing RM approvals at a minimum of every six months in conjunction with the member centered plan review.

15. If necessary, IDT staff will re-apply for continuation of an existing RM by submitting an application through LCI's RMRC on an annual basis; the application must be submitted within 75 – 90 days prior to the current approval lapse date for reevaluation and approval.
  - a. Renewal applications must be submitted to DHS through the DHS RM Database no less than 45 days prior to the lapse date.

### **Expedited Reviews:**

LCI will expedite reviews of requests for restrictive measures in situations such as the health and safety of the member/supports are at imminent risk and unplanned uses of restrictive measures have been used and/or when the member's current placement is more restrictive than their needs require. A subset of the RMRC will review expedited applications within one week of receipt of the application and supporting documentation from IDT staff.

A request for expedited review must contain the usual submission information, including required attachments, but DHS will accelerate the review timeframe. All expedited approvals will expire after no more than six months. A renewal submission is required to DHS 45 business days prior to expiration. If DHS approves an expedited request without the required physician's authorization, LCI will have 30 business days to submit the physician's authorization to DHS once the individual has moved into the home with the new provider.

### **Criteria for Approval:**

1. The team must cooperate in the development and submission of the RM application, which includes authorization/approval by providers, and the individual (or legal decision maker, if applicable), and IDT staff, and LCI RM Committee.
2. An authorization or approval from a medical practitioner is required for all restrictive measure requests. The team must obtain a physician's authorization annually. The medical approval must list the requested restraints and must include any contraindications for the use of the restraint.
3. Documentation that the provider has tried less restrictive strategies and interventions that were ineffective.
4. The plan details use of the measure only when the individual's behavioral response presents an immediate danger to self or other people. This does not include property damage, yelling, throwing objects, verbal threats, etc.
5. 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.
6. There is a detailed description or images of each requested restrictive measure. Images are required for new requests, but renewal requests may include detailed written descriptions of the measures instead of images if necessary.
7. When requesting initial approval and upon renewal of isolation or seclusion rooms, photos of the room and seclusion room locking mechanism must be included with the request.
8. The plan specifies frequencies and intervals for monitoring an individual during use of a restrictive measure for signs and symptoms of adverse effects on their health and wellbeing specified. The selection of the frequency of monitoring depends on the individual and the measure used but must not be less than once every 30 minutes and in the plan must clearly indicate the frequency. When plans include the use of isolation or seclusion, staff must ensure continuous visual monitoring.
9. The plan outlines the maximum duration of continuous application of the measure for each instance of use.
10. The plan outlines the release criteria from the measure. Staff must release the individual from the measure when the criterion identified in the plan is met.
11. The provider does not use restrictive measures in lieu of adequate staffing or for staff convenience.

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12. The staff adequately ensures the health, safety, welfare, dignity, and other rights while the restrictive measure is in use.
13. All staff involved in the use or monitoring of the restrictive measure must receive training prior to implementing it to ensure staff uses the measure properly. Staff must receive ongoing training on the use of the measure, at minimum, annually.
14. The team's supervision, monitoring plan, and backup arrangements are adequate to ensure effective responses to unanticipated reactions to the measure that might arise.
15. The request contains a reasonable plan for reducing or eliminating the need for using the measure as soon as possible. Teams should not think of restrictive measures as the solution for addressing the dangerous or challenging behavior but should instead think of them as a temporary strategy used to maintain safety.
16. The plan includes a measurable benchmark that would lead the team to consider eliminating the use of the measure in an effort to determine whether the plan is effective.
17. The request includes information related to how, protective equipment or other types of devices are checked regularly to ensure they remain in good working condition.
18. The request includes information about how often the team will meet to engage in a formal review of the use of the restrictive measure to ensure it remains the most effective method to meet the individual's support needs.

#### **Requirements for Denial or Pending Additional Items Notices:**

If LCI RM Committee requires additional information or clarification prior to approving a request, the CM Supervisor and IDT staff will be issued feedback via email including all required elements needed to approve the application. The team will generally have two weeks to complete necessary updates and return to the LC RM Lead. At that time, the RM Lead will forward the request on to DHS pending no additional concerns or requirements.

If DHS requires clarification or more information prior to approving or denying a request, DHS will send a denial pending additional items notice to LCI through the DHS Database. The LCI RM Lead will forward this feedback on to the CM Supervisor and IDT staff for follow up. The team will have up to two weeks to complete the necessary requirements. LCI RM Lead may request additional time from the DHS RM Coordinator when needed, however, if DHS does not receive response within 45 business days, the request will close.

#### **Contesting Restrictive Measures Related Decisions:**

All decisions made with respect to restrictive measures are subject to grievance, other than suspension of use, if there is disagreement with the decision. A grievance may come from an individual, their legal decision maker, a provider *on behalf of the individual* and with the individual's consent, or any person filing on behalf of an individual with their consent. Individuals who receive treatment for mental health, substance abuse, or developmental disability may also follow the grievance process outlined in Wis. Admin. Code Ch. DHS 94 to grieve decisions related to the use of a restrictive measure. The individual, their legal decision maker, a provider acting on behalf of the individual or their legal decision maker, or any person filing on behalf of an individual, who wishes to contest or grieve decisions of DHS or LCI, related to the use of restrictive measures, should follow this clients rights complaint process:

<https://www.dhs.wisconsin.gov/clientrights/complaints.htm>

Family Care members have the right to file a grievance regarding LCI decisions related to the use of a restrictive measure. The existing LCI grievance process applies to all member grievances related to the use of or denial of use of restrictive measures, other than the decision to suspend use. LCI has a written description of the grievance policy and procedure including member rights, including the right to be free from restrictive measures and the right to prompt and adequate treatment. Members or their legal decision makers who wish to contest or grieve

LCI decisions related to the use of restrictive measures should follow this process. Members may file a grievance by contacting the IDT staff or the LCI Member Rights Specialist.

Grievance of DHS Decisions can be made by contacting the Bureau of Adult Quality and Oversight RM Coordinator directly or by email at: [dhsbmcrm@dhs.wisconsin.gov](mailto:dhsbmcrm@dhs.wisconsin.gov). DHS assumes that the entire team is in agreement with the need for use of restrictive measures when a grievance is filed, and therefore, they can discuss the denial or imposed conditions for approval by emailing or direct contact. LCI may work with the provider to update the documents and submit an updated or new RM request based off the feedback given. DHS RM review panel will review the updated or new request and proceed with approval or denial process.

#### **Use and Continuous Monitoring of Restrictive Measures:**

Approval for restrictive measures should be considered a continuous process that does not end by approval decision of DHS. The team must continually monitor the use of any approved plan to ensure it is the least restrictive intervention necessary to meet the member's needs. The team must monitor the use of approved restrictive measures and ensure they are being used in accordance with the individual behavior support plan and approval. This monitoring and ongoing assessment should address whether the plan continues to be the least restrictive intervention.

Data collection is a requirement for all approved restrictive measures included in self directed support settings. The provider must collect data including the frequency per incident and the duration of each incident – each time a restrictive measure is utilized. The data must indicate the specific restrictive measure used. The team must assess this data ongoing and provide a summary and analysis of the data with every application for use of restrictive measure. Raw data sheets from providers will not be accepted as part of the RM application. Assessment and analysis of the behavior and use of restrictive measures must be completed by the team and summary indicating findings.

#### **Discontinuing the Use of Restrictive Measures:**

Providers will be required to discontinue the use of a restrictive measure if the team determines the use of the restrictive measure is not effective or no longer necessary. The provider must also remove discontinued restrictive measures from the individual's support plan. If the provider intends to use a previously discontinued measure in an emergency, criteria in 'Emergency Use of Restrictive Measures' in this policy must be met. Following the decision to discontinue the use of a measure, LCI RM Lead is responsible for entering the discontinuation date, the discontinue reason, and a letter of discontinuation into the previously approved request in the DHS Database. A copy of the discontinuation will be part of the member's electronic record and the team will ensure copies are also given to the Provider and member/legal representative. The team must ensure the MCP and all related documents (ex: BSP) are updated as well.

#### **Renewing Requests for Restrictive Measures:**

Approval for all restrictive measures, other than requests submitted for expedited review, will expire no later than one year from the date of approval. Restrictive measure requests submitted for expedited review will expire no later than six months after the date of approval. In some instances, the review panel may approve a request for less than one year. LCI must submit a renewal request if the need to use a restrictive measure continues after the initial approval period. The team must submit the renewal to the LCI RM Lead one month prior to the due date to DHS. LCI must submit the renewal via the DHS Database 45 business days prior to the previous approval expiration date. If an individual has approved restrictive measures and changes from one Medicaid-funded adult long-term care program to another or enrolls in a different ICA or MCO, the current plan may remain in place temporarily. LCI must submit a

restrictive measures request to DHS within 90 business days of the enrollment change for members choosing LCI.

### **Emergency Use of Restrictive Measures:**

LCI is required to obtain prior approval for use of restrictive measures from DHS. DHS will make exceptions to the requirement for prior approval if the situation meets the definition of an emergency use of restrictive measure. Provider agencies may use a restrictive measure in cases of emergency when the following conditions are met:

1. An emergency exists per the definition set forth in this policy.
2. Behavior poses an immediate threat of significant physical harm to self or others.
3. There is no approved behavior plan for the individual dealing with the planned use of restraint, isolation, or protective equipment intended to address this behavior, or there is an approved plan but it failed to anticipate a significant escalation in intensity or severity of the behavior.
4. 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.
5. Provider must have a written policy and procedure indicating agency protocol for use of restraints and notification process.

LCI's expects if a provider agency deems an emergency use of a restrictive measure is warranted, the restrictive measure utilized is effective, least restrictive, least intrusive, and a temporary means to assure the health and safety of the member. If a behavior meeting the definition of an unanticipated emergency occurs more than two (2) times in a six (6) month period, the behavior is no longer unanticipated and must be addressed as part of a behavior plan. Recurrent behaviors do not constitute an emergency and must be addressed in a formal support plan.

### **Reporting the Use of Unapproved Restrictive Measures:**

The use of restrictive measures outside an approved intervention plan will require a report being completed in the Incident Management System reportable to LCI within one business day. When a restrictive measure is used outside of an approved plan, the Member Supports Manager must be notified by the CM Supervisor as soon as possible. IDT staff will complete an incident report based off the criteria set forth in the Incident Management System Policy and Procedure, for any member receiving services by a LCI Provider, including residential providers, SDS Providers, or other Providers who serve a member in the community setting.

*Provider Requirements:* All contracted provider agencies must assure the following requirements are present in an emergency use of restrictive measure:

1. A written policy describing the process used if an emergency use of restrictive measure is warranted. This policy must include the name of 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. At minimum, the policy must require those using the measure to obtain eventual authorization by the agency director or designee as quickly as possible after use. Authorization must be limited to the specific current emergency episode. The provider must document date, time, and method of all attempts at notification.
2. The team ensures the provider agency staff person, director, or the director's designee has established individual-specific release criteria for the specific situation. Release criteria documentation must include a description of any conditions that must be present prior to releasing the individual. The criteria for release should also identify cues that are unique to the individual for determining if he or she appears to be calm and is no longer a danger. Any threats to an individual's health or well-being caused by the measure during its application

- require the immediate release from the restrictive measure and notification of supervisory personnel or medical personnel (if the individual requires immediate medical care).
3. Reauthorization for the use of the restrictive measure should be obtained if an emergency recurs after release from restraint. Recurrence of the emergency two times should cause the agency to initiate the process for obtaining approval for the planned use of restrictive measures.
  4. Restraint or isolation may be initially authorized in emergencies for up to one hour. After an hour, provider agencies must attempt to contact and consult with the member'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. The provider must document physician authorization in the member file.
  5. The provider agencies must ensure that staff applying or using any restrictive measure are adequately trained and competent in the use of the restrictive measure. Provider agencies should proactively seek the assistance of external professionals such as a behavior specialist when needed to assist staff in responding to the emergency. The provider should outline the training curriculum in the written emergency procedure policy.
  6. The use of a restrictive measure for an emergency situation must be monitored and documented by provider agencies. Reporting requirements of the use of restrictive measures as part of an approved plan will be specified in the individual approval for use. The use of the emergency restrictive measure must be monitored in a manner that conforms to the requirements in this policy and procedure including collecting data on the frequency per incident and the duration (number of minutes), each restrictive measure was utilized.
  7. When an emergency exists, and the dangerous/challenging behavior reaches a point where the provider staff believe they can no longer manage the situation safely or effectively, and when harm to the member, staff, or community is likely to result, staff should contact appropriate law enforcement authorities to handle the situation. Staff should follow internal provider policy and the member's individual service plan and/or behavior support plan for member specific criteria as to when law enforcement authorities should be contacted. Proactive discussions with local law enforcement and emergency protocol development are recommended.

**Reference/Cross Reference(s):**

- WI State Statutes: Chapters 46.90; 50.09; 51.61; 54; 55.043
- WI Administrative Code: DHS 132.33; DHS 132.60; DHS 82.10; DHS 83.21; DHS 88.10, DHS 88.11; DHS 94.10
- Member Safety and Risk: Mitigating Member Risk through the Incident Management System Policy and Procedure
- Appeal and Grievance Policy and Procedure
- Positive Behavioral Supports Policy and Procedure
- Department of Health Services, Division of Long Term Care, Family Care Contract
- DHS Restrictive Measures Guidelines and Standards