Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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Volume 135
February 7, 2024

# Use of Restraints in Nursing Homes and Residential Care Facilities

The use of restraints in nursing homes and residential care facilities is governed by both Ohio and federal law. Regarding state law, residents generally have a right to be free of restraints. However, when restraints are considered necessary, nursing homes and residential care facilities must follow specific rules regarding their use. These rules address when use is permitted, what kind of restraints may be used, the process of assessing if restraints may be used, and how to care for a restrained resident.

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## Right to be free of restraints

Ohio law establishes the right of nursing home and residential care facility (commonly referred to as "assisted living") residents to be free from physical and chemical restraints, and prolonged isolation, except to the minimum extent necessary to protect the resident from injury to self, others, and property, and except as authorized in writing by the attending physician for a

limited period of time and documented in the resident's medical record.[1] A physical restraint includes any article, device, or garment that interferes with the resident's free movement and that the resident is unable to remove easily; a geriatric chair; or a locked room door.[2] A chemical restraint is any medication bearing the American Hospital Formulary Service (AHFS) therapeutic class 4:00, 28:16:08, 28:24:08, or 28:24:92 that alters the functioning of the central nervous system in a manner that limits physical and cognitive functioning to the degree that the resident cannot attain the resident's highest practicable physical, mental, and psychosocial well-being.[3] Under the AHFS classification system, drugs in class 4:00 are antihistamine drugs and drugs in class 28:00 are central nervous system agents.[4]

Ohio laws related to physical and chemical restraints are discussed in greater detail below. Note that the use of restraints in nursing homes reimbursed by Medicare or Medicaid is also governed by similar federal regulations that establish conditions for participation for those programs.[5]

# Limits on restraints

Evolving professional standards of practice continue to identify treatment options that tend to be more effective than restraints. However, short-term use of restraints may be beneficial in certain circumstances. For example, restraints may be used to keep a confused or disoriented resident from pulling out stitches, tubes, or an I.V.[6] If a restraint is used, it must be the least restrictive for the least amount of time. The Ohio Administrative Code discusses which types of restraints are approved, time limits on restraint use, care for the restrained individual, and what constitutes the proper use of restraints.

## Selecting restraints

While there are several different objects or drugs that may be considered or used as restraints, the use of restraints as punishment, incentive, or convenience is prohibited.[7] Prone restraints (where an individual is placed face-down) and transitional holds (where an individual is briefly placed face-down to quickly gain physical control of the individual) are both prohibited.

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[1] R.C. 3721.13(A)(13).

[2] R.C. 3721.10(F).

[3] R.C. 3721.10(G).

[4] AHFS Pharmacologic-Therapeutic Classification System (PDF), available by searching "AHFS" on the Oregon Board of Naturopathic Medicine's website: oregon.gov/obnm. Additional information on the full classification, including contact information to obtain access, can be found on the American Society of Health-System Pharmacists' website: ashp.org.

[5] 42 Code of Federal Regulations 483.12(a)(2). See also U.S. Department of Health and Human Services, Office of the Inspector General, Minimizing Restraints in Nursing Homes: A Guide to Action (PDF), OEI-01-91-00840.

[6] Ohio Department of Health, Guidelines for Restraint Use, available on the Department of Health's website: odh.ohio.gov.

[7] R.C. 3721.13(A)(13); O.A.C. 3701-17-15(B)(1).

If a physical restraint is ordered, the nursing home is required to select the appropriate restraint for the physical build and characteristics of the resident. The home also must follow the manufacturer's instructions in applying the restraint.

Under rules adopted by the Ohio Department of Health (ODH), the following are not permitted to be used as restraints: jackets, sheets, cuffs, belts, or mitts made with unprotected elements of materials such as heavy canvas, leather or metal. If physical or chemical restraints are used, the nursing home must ensure that the restrained resident receives a proper diet.[8] Bed rails cannot be used as restraints unless they are necessary to treat a resident's medical symptoms.[9]

### Time limits on restraints

The attending or staff physician in a nursing home or residential care facility may authorize continued use of physical or chemical restraints for a period not to exceed 30 days. At the end of this period and any subsequent period, the physician may extend the authorization for an additional period of not more than 30 days. The continued use of physical or chemical restraints requires another personal examination of the resident and written authorization of the physician stating the reasons for continuing the restraint. In emergency situations, restraints may be used without a prior authorization or examination, but use of the restraints cannot be continued for more than 12 hours.[10]

## Restraint protocol

ODH has published Guidelines for Restraint Use (PDF) that explain the decision process for the use of restraints. Under those guidelines, the facility conducts an initial analysis, to determine the reason for using the device in the context of the resident's condition, circumstances, and environment. The facility also must determine the medical symptoms creating the need to use the device and the impact the device would have on the resident's function. If the device being considered restricts freedom of movement, ODH considers the device a restraint and the facility must follow ODH's restraint protocol, a summary of which can be found on ODH's website, and which is discussed in greater detail below.[11]

### Resident assessment

Determining whether or not a restraint is permissible is based on an individualized assessment of the resident. The assessment identifies the specific medical symptoms of the resident and evaluates the risks and benefits of using the device. Facilities must assess the resident to determine functional status and what quality of life area using the device will improve, maintain, or enhance. The assessment should identify the medical symptom that warrants the

[8] Ohio Administrative Code (O.A.C.) 3701-17-15(D); R.C. 3721.13(A)(13).

[9] Ohio Department of Health, Guidelines for Restraint Use (PDF), available under Information & Programs, then under Nursing Home/Facilities, then under Resources on the Department of Health's website: odh.ohio.gov.

[10] R.C. 3721.13(A)(13); O.A.C. 3701-17-15(F).

[11] Ohio Department of Health, Guidelines for Restraint Use (PDF).

use of a restraint, the underlying cause of the medical symptom, rule out other possible interventions, involve the resident and family in determining the risks and benefits of restraints, and analyze all other information.[12]

## Interdisciplinary team meeting

After the individualized assessment, an interdisciplinary team meeting is required. The team meeting evaluates relevant factors leading to the consideration of a restraint. The team must determine that the resident's needs are being met and that the need to use restraints is not the result of an unmet need. It must investigate alternatives to restraints and determine that alternative measures have been exhausted and found to be unsuccessful. The team also must weigh the risks and benefits of restraint use before concluding that the device is appropriate for the resident.[13]

## Physician's order

The use of restraints in nonemergency situations may be authorized only by a physician's order. The order must specify the type of restraint, the reason for the restraint, and the duration of the restraint. Prior to the use of restraints and every 30 days for continued use, the physician must personally examine the resident and document authorization for the restraint.[14]

## Informed consent

The facility also must obtain written consent from the resident or the resident's authorized representative prior to using restraints. Facilities may honor orders in place during a transfer from another facility for 24 hours before obtaining consent from the resident.[15]

## Comprehensive individualized plan of care

A care plan is developed with input from the resident and the resident's family and is based on informed choice to use restraints. The plan explains risks and benefits of restraints to the resident and family. It also addresses medical symptoms, safety issues as a result of restraint usage, measures to minimize risk of resident decline and to maintain strength and mobility, meaningful activities and other psychosocial needs, specifies what type of restraint may be used, when it can be used, and when it may be released, and ensures the restrained resident receives a nutritionally adequate diet. The plan must be evaluated and revised as necessary.[16]

## Implementation

If restraints are determined to be the appropriate choice for a resident, the correct application of the restraints must be supervised by a nurse and applied following the manufacturer's instructions. The restrained resident must be monitored at least every 30

[12] O.A.C. 3701-17-15(C).

[13] O.A.C. 3701-17-15(C).

[14] O.A.C. 3701-17-15(E).

[15] O.A.C. 3701-17-15(C).

[16] Ohio Department of Health, Guidelines for Restraint Use (PDF).

minutes. The resident must be reassessed and the situation must be reevaluated before the use of restraints may be reduced or eliminated.[17]

### Resident choice

An alert resident who requests restraints may receive them, but the protocol still must be followed. A resident requesting restraints must be fully informed about what restraints entail. The facility is required to explain, in the context of the resident's condition and circumstances, the potential risks and benefits of all options under consideration, including using a restraint and other alternatives.

When restraints are considered, the facility must explain to the resident how using restraints would treat the resident's medical symptoms and assist the resident in maintaining the highest practical level of well-being. The facility also must explain the potential negative outcomes of restraint use, both physical and psychological. If the resident is incapable of making a decision, the resident's representative cannot require the use of a restraint in the absence of a medical symptom.[18]

## Use of restraints in other facilities

Other facilities, such as mental health facilities and regional psychiatric hospitals, might have different requirements for restraints. In mental health facilities, seclusion or restraint must only be used in response to a crisis situation. Seclusion or restraint cannot be used as a behavior management intervention, to compensate for lack of sufficient staff, as substitute for treatment, or as an act of punishment or retaliation. Administrative rules differentiate between mechanical and physical restraints and have different requirements for both, including how residents may be physically positioned while being restrained.[19]

Regional psychiatric inpatient settings that are operated by the Ohio Department of Mental Health and Addiction Services (OhioMHAS) also have separate rules regarding restraint and seclusion. OhioMHAS policy requires that seclusion and restraint must be applied in a safe and humane manner as measures of last resort. Policies also include which kinds of restraints and holds are approved and which are not, training for individuals permitted to implement seclusion and restraints, documentation and monitoring standards, and when to conduct debriefings about situations requiring restraint or seclusion, among other standards.[20]

[17] O.A.C. 3701-17-15(D).

[18] Ohio Department of Health, Guidelines for Restraint Use (PDF).

[19] O.A.C. 5122-26-16(E)(1) and (2).

[20] O.A.C. 5122-2-17.