Disability Law Center's
Self-Advocacy Materials

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Rights In Facilities

This document is designed for people with disabilities. The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

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Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

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Restraint and Seclusion

You Will Learn About:

- Differences between Restraint and Seclusion
- When Restraint and Seclusion Can Be Used
- Unlawful Restraints
- Alternatives to Restraint and Seclusion

Differences between Restraint and Seclusion

What is Restraint and Seclusion?

Restraint and seclusion are techniques used in Department of Mental Health (DMH) and DMH-licensed facilities in an emergency to limit a patient's movement. Restraint and seclusion are allowed to stop extreme violence, personal injury or suicide attempts. Staff can restrain or seclude a patient only when there is a **substantial risk of serious harm**. Restraint and seclusion may only be used when no other less serious action can be used effectively. Staff is required to try other options before using restraint or seclusion.

Restraint is when a person's freedom of movement is limited by physical force; a mechanical device; or by medication. These three types of restraint are called:

- Physical Restraint
- Mechanical Restraint
- Medication Restraint

A **physical restraint** involves holding a patient in a way that restricts their freedom of movement or normal access to their body. This does not include staff guiding a patient to another area or taking steps to prevent harm, such as blocking a blow, breaking up a fight, or preventing a fall. Holding a patient to administer a medication against the patient's wishes is a form of physical restraint.

A **mechanical restraint** involves using a device, such as four-point or five-point restraint, to restrict a patient's movement or the movement of part of a patient's body.

A **medication restraint**, sometimes called a "chemical restraint," occurs when medication is administered to control a patient's behavior or restrict a patient's freedom of movement.

Seclusion is when a patient is placed against their will in a room that they cannot leave. This can happen by locking the door to the room or by having staff stop the patient from leaving. Seclusion can also happen when staff threatens to restrain or take away a patient's privileges if they try to leave the room.

The difference between restraint and seclusion is that seclusion is not physically controlling the patient's ability to move within the designated seclusion area.

When Restraint and Seclusion Can Be Used

When are Restraint and Seclusion Not Allowed?

Restraint and seclusion are serious matters that require the hospital to follow several protocols, including following the wishes expressed in patients' individual crisis prevention plans, getting written permission to administer a restraint, examining a patient who is being restrained, and other steps that are meant to protect patients' rights.

Restraint and seclusion are not allowed when:

- The risk of harm has passed
- Staff can safely move away

- It is used to punish the patient
- The patient wants to be secluded or restrained
- The patient is unable to cause harm

The risk of harm has passed: The risk of harm has passed when the patient cannot do anything that will cause instant harm. For example, if a patient is upset and throws a chair, but they quickly calm down, there is not a risk of harm anymore. In that situation, the use of seclusion or restraint is not allowed.

Staff can safely move away: If a patient is upset in a space where they cannot hurt themselves or others, the staff should move away. In this situation, the use of seclusion or restraint is not allowed.

To punish the patient: Throwing objects, destroying property, name calling, making meaningless threats, or being offensive cannot be the reason for restraint or seclusion. Restraint and seclusion should only happen when those behaviors are paired with the immediate risk of serious harm. Staff cannot punish a patient for bad behavior with restraint or seclusion.

The patient wants to be secluded or restrained: Sometimes patients want to be restrained or secluded. This can happen because a person is used to being secluded or restrained so it makes them feel safe and in control. Some patients may ask for a medication restraint because they are having difficult thoughts or feelings. While these may be seen as an act of compassion, it is not an allowable use of restraint or seclusion.

The patient is unable to cause harm: It is unfortunately common for hospitals to seclude and restrain patients who are unable to cause harm. For example, when a patient is in a mechanical restraint it is practically impossible for the patient to cause harm to themself or others. However, hospitals regularly give a medication restraint to patients already in a mechanical restraint.

The reasons hospitals give for doing this include: the patient is struggling, medication will decrease the time the patient is in restraints, or it will quiet a patient who is yelling or making threats. Despite the patient's behavior, there is no risk of serious harm so additional restraint is not allowed. This does not mean that staff cannot offer the patient medication to calm down. It means that the behavior, by itself, does not allow for the use of a medication restraint.

Another reason for giving a medication restraint to a person in mechanical restraint is to prevent a medical emergency. While a medical emergency may require treatment, only a "behavioral" emergency where there is a substantial risk of serious harm (such as extreme violence, personal injury or attempted suicide) allows for the use of restraint.

Alternatives to Restraint and Seclusion

What About Trauma Informed Care and Alternatives to Restraint?

The use of restraint and seclusion is upsetting for patients and staff. Patients and staff are often injured during restraints. Restraint can sometimes result in death. Also, being mechanically restrained and getting injections into the patient's hip or buttocks can be especially upsetting for patients who are victims of sexual assault.

Hospitals are supposed to be making efforts to limit the use of restraint and seclusion. They are learning that there are many tools and activities that can help patients manage their thoughts and feelings. These tools include weighted blankets, comfort rooms, aroma-therapy, music, exercise,

dance, yoga, and pet therapy. These activities have been shown to be helpful to patients. Teaching staff different ways to help patients during certain behaviors, including de-escalation techniques, is helping to reduce the use of restraints and seclusion. Individual crisis prevention plans can help staff to understand a patient's 'triggers.' The plans can also help staff learn ways to de-escalate a patient. Individual plans also help staff understand what type of restraint a patient would prefer if a restraint is needed.

These techniques are always changing and improving. This is done by talking to clients, staff training, and looking at situations where the restraint was avoided.

Unlawful Restraints

What Do I Do If I Believe I Was Unlawfully Restrained or Secluded?

The regulations about the use of restraints and seclusion are found at 104 CMR § 27.00 (https://www.mass.gov/regulations/104-CMR-2700-licensing-and-operational-standards-for-mental-health-facilities). These regulations say when the use of restraint and seclusion are allowed. A person may file a complaint with the Human Rights Officer (HRO) at the hospital where the restraint or seclusion happened if they believe the restraint or seclusion was unlawful.

A complaint can also be filed with the Director of Human Rights, Director of Licensing, and the Person in Charge of the Hospital, or the Area Director for the Department of Mental Health. A complete list with the contact information for these individuals can be found at: https://www.mass.gov/dmh-offices-facilities-and-staff-directory