

Texas Health and Human Services (HHSC) Rules Related To the Use of Restraint and Involuntary Seclusion

19.101 Definitions

- (1) Abuse—Negligent or willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical or emotional harm or pain to a resident; or sexual abuse, including involuntary or non consensual sexual conduct that would constitute an offense under Penal Code§21.08 (indecent exposure) or Penal Code Chapter 22 (assaultive offenses), sexual harassment, sexual coercion, or sexual assault.

- (55) “Involuntary seclusion”—Separation of a resident from others or from the resident’s room or confinement to the resident’s room, against the resident’s will or the will of a person who is legally authorized to act on behalf of the resident. Monitored separation from other residents is not involuntary seclusion if the separation is a therapeutic intervention that uses the least restrictive approach for the minimum amount of time, not to exceed 24 hours, until professional staff can develop a plan of care to meet the resident’s needs.

- (103) Physical restraint—See Restraints (physical).

- (125) Restraint hold—
 - (A) A manual method, except for physical guidance or prompting of brief duration, used to restrict:
 - (i) free movement or normal functioning of all or a portion of a resident’s body; or
 - (ii) normal access by a resident to a portion of the resident’s body.

 - (B) Physical guidance or prompting of brief duration becomes a restraint if the resident resists the guidance or prompting.

- (126) Restraints (chemical)—Psychoactive drugs administered for the purposes of discipline, or convenience, and not required to treat the resident’s medical symptoms.

- (127) Restraints (physical)—Any manual method, or physical, or mechanical device, material or equipment attached, or adjacent to the resident’s body, that an individual cannot remove easily which restricts freedom of movement or normal access to one’s body. This term includes a restraint hold.

19.403 Notice of Rights and Services

- (b) The facility must also inform the resident, upon admission and during the stay, in a language the resident understands, of the following:
 - (6) HHSC’ rules and the facility’s policies to the use of restraint and involuntary seclusion. This information must also be given to the resident’s legally authorized representative, if the resident has one.

- (d) Receipt of information in subsection (b) of this section, and any amendments to it, must be acknowledged in writing by all parties receiving the information.

- (e) The facility must post a copy of each document specified in subsections (b) of

this section in a conspicuous location.

19.408 Grievances

(c) A facility may not discharge or otherwise retaliate against:

1. an employee, resident, or other person because the employee, resident, or other person files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of a restraint or involuntary seclusion at the facility; or
2. a resident because someone on behalf of the resident files a complaint, presents a grievance, or otherwise provides in good faith information relating to the misuse of a restraint or involuntary seclusion at the facility.

19.601 Resident Behavior and Family Practice

(a) Restraints. The resident has the right to be free from any physical or chemical restraints imposed for purposes of discipline or convenience, and not required to treat the resident's medical symptoms.

- (1) If physical restraints are used because they are required to treat the resident's medical condition, the restraints must be released and the resident repositioned as needed to prevent deterioration in the resident's condition. Residents must be monitored hourly and, at a minimum, restraints must be released every two hours for a minimum of 10 minutes, and the resident repositioned.
- (2) A facility must not administer to a resident a restraint that:
 - (A) obstructs the resident's airway, including a procedure that places anything in, on, or over the resident's mouth or nose;
 - (B) impairs the resident's breathing by putting pressure on the resident's torso;
 - (C) interferes with the resident's ability to communicate; or
 - (D) places the resident in a prone or supine hold.
- (3) A behavioral emergency is a situation in which severely aggressive, destructive, violent, or self-injurious behavior exhibited by a resident:
 - (A) poses a substantial risk of imminent probable death of, or substantial bodily harm to, the resident or others;
 - (B) has not abated in response to attempted preventive de-escalatory or redirection techniques;
 - (C) could not reasonably have been anticipated; and
 - (D) is not addressed in the resident's comprehensive care plan.
- (4) If restraint is used in a behavioral emergency, the facility must use only an acceptable restraint hold. An acceptable restraint hold is a hold in which the resident's limbs are held close to the body to limit or prevent movement and that does not violate the provisions of paragraph (2) of this subsection.

- (5) A staff person may use a restraint hold only for the shortest period of time necessary to ensure the protection of the resident or others in a behavioral emergency.
 - (6) A facility may adopt policies that allow less use of restraint than allowed by the rules of this chapter.
 - (7) Use of restraints and their release must be documented in the clinical record.
- (b) Abuse. The resident has the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, and involuntary seclusion.
- (c) Staff treatment of residents. The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents, and misappropriation of residents' property.
- (1) The facility must:
 - (A) not use verbal, mental, sexual, or physical abuse, corporal punishment, or involuntary seclusion; and
 - (B) not employ individuals who have:
 - (i) been found guilty of abusing, neglecting, or mistreating residents by a court of law, or
 - (ii) had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property; or
 - (iii) been convicted of any crime contained in §250.006, Health and Safety Code; and
 - (C) report any knowledge it has of actions by a court of law against and employee, which would indicate unfitness for service as a nurse aide or other staff to the state nurse aide registry or licensing authority.