

OFFICE OF PATIENTS' RIGHTS

Protection & Advocacy, Inc.

100 Howe Avenue, Suite 210N

Sacramento, CA 95825-8202

Telephone (916) 575-1610

Toll Free (800) 254-5166

FAX (916) 575-1613

To: All Patients' Rights Advocates

From: Office of Patients' Rights

Re: HCFA Rules on Restraint and Seclusion and Other Patient Protections

Date: August 3, 1999

On July 2, 1999, the Health Care Financing Administration published in the Federal Register (vol. 64, pp. 36069 – 36089) interim final regulations establishing standards regarding hospitals' use of restraint and seclusion and other patient rights protections such as patient right to participation in care plan development. These new regulations became effective on August 2, 1999 and effect all Medicare and Medicaid (MediCal)-participating hospitals, which have short-term psychiatric, rehabilitation, long-term, children's and alcohol-drug treatment facilities.

The following are some of the key provisions of the new regulations related to the use of seclusion and restraint for behavioral management:

The regulations require that a physician "see and evaluate the need for seclusion and restraint within 1 hour after initiation of this intervention."

The regulations adopt the JCAHO standards for time-limited orders for seclusion or restraint. Orders for restraint or seclusion for behavioral health patients are limited to 4 hours for adults, 2 hours for children ages 9 to 17 and 1 hour for children under age 9. The original order for seclusion or restraint may only be renewed in accordance with these time limits for a total of up to 24 hours. After the original order expires, a physician must see and assess the patient before issuing a new order.

The regulations prohibit the simultaneous use of seclusion and restraint unless the patient is *continually* monitored face to face by an assigned staff member or *continually* monitored by staff using *both* video and audio equipment.

The regulations require that the hospital report to HCFA any death that occurs while the patient is in seclusion or restraint, or where it is “reasonable to assume that a patients’ death is the result of restraint or seclusion.”

We encourage all patients’ rights advocates to familiarize themselves with the regulations so that they may assist the facilities in their counties with complying with these new standards. You can download a copy of the regulations from the government website (www.cms.hhs.gov). The Office of Patients’ Rights will also be providing education and training on issues related to seclusion and restraints at the upcoming Patients’ Rights Annual Training. We hope to see all of you there.

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