

FOR THE STATE OF _____ LEGISLATIVE SESSION

**REGULATION TO BE ENACTED AS LAW PREVENTING THE USE OF
PHYSICAL OR MECHANICAL RESTRAINT PROCEDURES IN PSYCHIATRIC FACILITIES**

A BILL ENTITLED

**PROHIBITION OF COERCIVE PHYSICAL AND MECHANICAL RESTRAINT OF A
PERSON ADMITTED TO A PSYCHIATRIC INSTITUTION, HOSPITAL OR FACILITY**

Preamble: There are serious concerns about physical and mechanical restraint use on individuals admitted to psychiatric institutions, hospitals or other mental health facilities. Often a registered nurse or other licensed staff may initiate the use of restraints as long as he/she obtains a verbal order from a psychiatrist or physician to do so, but the psychiatrist need not be present at the time the restraints are initiated. Further, staff have goaded patients taking psychotropic drugs (known to cause violent behavior) into aggressive acts, and restraint procedures have subsequently been used as a means of punishment or for staff convenience.

According to a 1999 U.S. General Accounting Office investigation and report entitled, "Improper Restraint or Seclusion Use Places People at Risk," clinicians have determined that potentially fatal cardiac arrhythmia can result from the combination of certain drugs and the adrenaline produced by an individual's agitation and physical struggle while being restrained.

During the restraint procedure, patients are often poorly treated, abused or injured and there is serious risk of death. Often, restraint-related deaths are simply ruled natural and the details never investigated by the police or coroner.

With children being particularly vulnerable to physical restraint, the practice should be prohibited on any child or teenager under 18 years old.

Purpose: Legislation to outlaw restraints that obstruct a person's airway, impair breathing or interfere with someone's ability to communicate, or to be administered for punishment, discipline or for staff convenience. Any use of restraint procedures leading to patient death is to be immediately forwarded to the proper law enforcement agencies for criminal investigation.

Definition:

Restraint: The use of physical devices or techniques for restricting movement, e.g. leather belts, straps, cloth ties, mittens, bodily holding, physically restricting a person by holding them prone on the floor. Mechanical restraint is defined as any apparatus that interferes with the free movement of a patient.

SEC. 1: REGULATIONS

- a) All persons admitted to a psychiatric or mental health facility have a right to be free from harm, including unnecessary or excessive physical restraint, isolation, abuse or neglect. Restraint shall never be imposed as a means of coercion, discipline, staff convenience, or retaliation.
- b) The restraining of a patient shall only be used as a last resort in an emergency for the protection of the patient and shall never involve any procedure that obstructs the patient's airway, impairs breathing or interferes with someone's ability to communicate. Any person placed in seclusion or under restraint shall be kept in a humane environment with regular supervision by appropriate medical staff and the duration of restraint/seclusion should be videotaped to ensure that there is no abuse, mistreatment or complications.
- c) No restraint procedure can be determined to be a part of the patient's "therapy" or treatment plan and shall not be billed to health insurance benefits for reimbursement.
- d) The use of physical or mechanical restraint is prohibited on anyone aged 18 or under.
- e) The hospital must report to the health authorities and police any death or injury that occurs while a patient is restrained or in seclusion.

SEC. 2: CRIMINAL PENALTIES

- a) A person commits a crime if the person intentionally causes, conspires with another to cause, or assists another to physically restrain an adult in a mental health facility in violation of the standards as outlined in Section 1: a) – c).
- b) A person commits a crime if the person intentionally causes, conspires with another to cause, or assists another to cause a minor (under 18) to be physically restrained in a mental health facility.
- c) Where a hospital fails to report to the health authorities and police any death or injury that occurs while a patient is restrained or in seclusion, or as a result of a restraint procedure, the director of the facility and psychiatrist or physician who ordered the restraint procedure shall be subject to the same criminal penalties.
- d) An individual who commits a crime under this section is subject on conviction to:
 - (1) Confinement in prison of not less than two years.

Where the restraint of the adult (or illegal restraint of a child) results in harm, damage or death, those responsible for causing the physical restraint, including the supervising psychiatrist or doctor, shall be held culpable and charged and tried in accordance with domestic law.