410 IAC 16.2-3.1-3 Residents' rights
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

... (w) 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.

410 IAC 16.2-3.1-13 Administration and management

(g)... The responsibilities of the administrator shall include, but are not limited to, the following:

(1) Immediately informing the division by telephone, followed by written notice within twenty-four (24) hours, of unusual occurrences that directly threaten the welfare, safety, or health of the resident or residents, including, but not limited to, any:
   (A) epidemic outbreaks;
   (B) poisonings;
   (C) fires; or
   (D) major accidents. If the department cannot be reached, such as on holidays or weekends, a call shall be made to the emergency telephone number ((317) 383-6144) of the division.

410 IAC 16.2-3.1-26 Resident behavior and facility practices
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 26. (a) Less restrictive measures must have been tried by the interdisciplinary team and shown to be ineffective before restraints are applied.
(b) Restraint or seclusion shall be employed only by order of a physician, and the type of restraint or seclusion shall be specified in the order.
(c) Per required need (PRN) restraint or seclusion shall only be employed upon the authorization of a licensed nurse. All contacts with a nurse or physician not on the premises for authorization to administer PRN restraints shall be documented in the nursing notes indicating the time and date of the contact.
(d) The facility policy manual shall designate who is authorized to apply restraints. The facility shall have written procedures in which the persons authorized to apply restraints have been properly trained.
(e) In emergencies when immediate physical restraint or seclusion is needed for the protection of the resident or others, restraint or seclusion may be authorized by a licensed nurse for a period not to exceed twelve (12) hours. A physician's order to continue restraint or seclusion must be obtained in order to continue the restraint beyond the twelve (12) hour period.
(f) A record of physical restraint and seclusion of a resident shall be kept in accordance with this rule.
(g) Each resident under restraint and seclusion shall be visited by a member of the nursing staff at least once every hour and more frequently if the resident’s condition requires. 

(h) Each physically restrained or secluded individual shall be temporarily released from restraint or seclusion at least every two (2) hours or more often if necessary except when the resident is asleep. When the resident in restraint is temporarily released, the resident shall be assisted to ambulate, toileted, or changed in position as the resident’s physical condition permits.

(i) A resident shall not be placed alone in a room with a full, solid locked door.

(j) Key lock restraints shall not be used or available in the facility.

(k) Chemical restraint shall be authorized in writing by a physician.

(l) An order for chemical restraints shall specify the dosage and the interval of and reasons for the use of chemical restraint.

(m) Administration of chemical restraints shall be documented in accordance with this rule.

(n) Restraints and seclusion shall be used in such a way as not to cause physical injury to the resident.

(o) Restraints of any type or seclusion shall only be used for the protection and safety of residents or others as required by medical symptoms that warrant the restraint, or safety issues that warrant the seclusion, and shall not be used as a punishment. Restraints and seclusion shall be used in such a way as to minimize discomfort to the resident.

(p) Restraints or seclusion shall be applied in a manner that permits rapid removal in case of fire or other emergency.

(q) The resident’s legal representative shall be notified of the need for restraint or seclusion at the time of the physician’s initial order or within twenty-four (24) hours after emergency restraint or seclusion is applied. Such notification shall be documented in the nursing notes. After the physician’s order for restraint or seclusion is initially written, the legal representative may request in writing not to be notified.

(r) The least restrictive restraint must be used. The continued use of the restraint or seclusion must be reviewed at each care plan conference. Least or lesser restrictive measures must be considered at each meeting.

(s) The use of restraints must be reviewed by the interdisciplinary team within one (1) month after the application of the restraint, and every thirty (30) days for the first ninety (90) days of the restraints, and at least quarterly thereafter.

(t) For purposes of IC 16-28-5-1, a breach of:

1. subsection (j) or (n) is an offense;
2. subsection (a), (b), (c), (d), (e), (g), (h), (i), (k), (l), (o), (p), or (r) is a deficiency; and
3. subsection (f), (m), (q), or (s) is a noncompliance. (Indiana State Department of Health; 410 IAC 16.2-3.1-26; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1550, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; filed Jul 22, 2004, 10:05 a.m.: 27 IR 3996; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-3.1-27 Abuse and neglect
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 27. (a) The resident has the right to be free from:

1. sexual, physical, and mental abuse;
2. corporal punishment;
neglect; and
involuntary seclusion.

(b) The resident has the right to be free from verbal abuse.

c) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (a) is an offense; and
(2) subsection (b) is a deficiency. (Indiana State Department of Health; 410 IAC 16.2-3.1-27; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1551, eff Apr 1, 1997; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)

410 IAC 16.2-3.1-28 Staff treatment of residents
Authority: IC 16-28-1-7; IC 16-28-1-12
Affected: IC 16-28-5-1

Sec. 28. (a) The facility must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of residents and misappropriation of resident property.

(b) The facility must:
(1) not employ individuals who have:
(A) been found guilty of abusing, neglecting, or mistreating residents or misappropriating residents’ property by a court of law; or
(B) had a finding entered into the state nurse aide registry concerning abuse, neglect, mistreatment of residents, or misappropriation of their property; and

(2) report any knowledge the facility has of actions by a court of law against an employee, which would indicate unfitness for service as a nurse aide or other facility staff to the state nurse aide registry or licensing authority.

(c) The facility must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of resident property, are reported immediately to the administrator of the facility and other officials in accordance with state law through established procedures, including to the state survey and certification agency.

(d) The facility must have evidence that all alleged violations are thoroughly investigated and must prevent further potential abuse while the investigation is in progress.

(e) The results of all investigations must be reported to the administrator or the administrator’s designated representative and to other officials in accordance with state law (including to the department) within five (5) working days of the incident, and if the alleged violation is verified, appropriate corrective action must be taken.

(f) For purposes of IC 16-28-5-1, a breach of:
(1) subsection (b), (c), (d), or (e) is a deficiency; and
(2) subsection (a) is a noncompliance. (Indiana State Department of Health; 410 IAC 16.2-3.1-28; filed Jan 10, 1997, 4:00 p.m.: 20 IR 1551, eff Apr 1, 1997; errata filed Apr 10, 1997, 12:15 p.m.: 20 IR 2414; readopted filed Jul 11, 2001, 2:23 p.m.: 24 IR 4234; readopted filed May 22, 2007, 1:44 p.m.: 20070613-IR-410070141RFA)