10.07.02.22 Reports and Action Required in Unusual Circumstances.

A. Serious Emotional Disturbances. A facility may not accept or keep patients who destroy property or are dangerous to themselves or others, or who have acute symptoms of mental illness.

B. Action to Be Taken if a Patient Becomes Actively Disturbed. The following action shall be taken:

(1) If a patient becomes actively disturbed, the personal physician shall be notified immediately.
(2) A restraint may be used only if all of the following conditions are met:
   (a) Failure to use a restraint or restraints is likely to endanger the health or safety of the patient or others;
   (b) There is a written physician's order for the use of the restraint or restraints, which shall comply with the following requirements:
      (i) The physician's written order for the restraint or restraints shall be for a specified maximum period of time, not to exceed 24 hours.
      (ii) The necessity for the use of the restraint or restraints shall be documented, and
      (iii) The frequency of patient observations by licensed personnel on not less than an hourly basis during the period of time that the restraint or restraints or the effects of the restraint or restraints are present shall be indicated;
   (c) Appropriate documentation by licensed personnel shall be recorded in the clinical record;
   (d) The facility may not re-impose a restraint or restraints except upon the written order of a physician who has personally observed the patient since the previous restraint or restraints order was imposed.
(3) A restraint or restraints may not be ordered PRN.
(4) If a physician is not immediately available, a registered nurse may authorize the use of a physical restraint or restraints for a period not to exceed 4 hours in any 30-day period. Licensed personnel shall observe the patient hourly. The patient shall be seen by a physician if the restraint or restraints are to be applied for more than the initial 4-hour period.

C. Locked Doors Prohibited. Patients may not be kept behind locked doors, that is, doors which patients cannot open. If the patient becomes too difficult to manage, the patient shall be transferred to a suitable facility selected by the attending physician. If the physician so orders, patients who have a tendency to wander may be confined to their rooms by screen doors or folding gates.
[Agency Note: Supervision should be adequate to prevent patients from intruding into the rooms of other patients.]
D. Unusual Occurrences. Any occurrence such as the occurrence of suspected mental disturbance, communicable disease, or symptomatic condition of importance to public health, poisoning, or other serious occurrence which threatens the welfare, safety, or health of any patient shall be reported immediately to the local health department. The administrator of the facility shall be responsible for seeing that appropriate procedures and reporting are carried out. An occurrence of a communicable or suspected communicable disease shall be reported and acted upon in accordance with medical asepsis as described in COMAR 10.06.01 Communicable Diseases and COMAR 10.15.03 Food Service Facilities. [Agency Note: Utilization Review. A utilization review plan should be developed with the advice of the professional personnel responsible for the establishment and enforcement of patient care policies. It is suggested that there be established a multi-discipline audit team to participate in an ongoing system of internal patient care audit.]

10.07.09.14 Physical and Chemical Restraints.
A. Physical restraints may be used only:

(1) As an integral part of an individual medical treatment plan;
(2) If absolutely necessary to protect the resident or others from injury;
(3) If prescribed by a physician or administered by another health care professional practicing within the scope of their license; and
(4) If less restrictive alternatives were considered and appropriately ruled out by the physician.

B. Use of Physical Restraints.

(1) When a facility uses physical restraints, personnel:
(a) Trained in the use of restraints shall check a resident in restraint at least every 2 hours, and maintain a record of the checks and usage; and
(b) Shall provide opportunities for motion and exercise during each 2-hour period in which physical restraint is used, and shall monitor the use of the restraint and maintain a record of it.

(2) The attending physician shall ensure that treatment plans include provisions for the progressive elimination of physical restraints. C. Use of Psychopharmacologic Drugs. When a physician prescribes psychopharmacologic drugs for a resident, the resident’s clinical records shall contain all of the following documentation:

(1) A physician’s indication that the dosage, duration, indication, and monitoring are clinically appropriate and the reasons why they are clinically appropriate;
(2) Indication that the resident is being monitored for adverse complications of the drug therapy;
(3) Confirmation that previous attempts at dosage reduction have been unsuccessful, if applicable;
(4) Evidence of the resident’s subjective or objective improvement, or maintenance or function, while taking the medication;
(5) Evidence that the resident’s decline or deterioration, if applicable, has been evaluated by the interdisciplinary team to determine whether a particular drug, a particular dosage, or duration of therapy may be the cause;
(6) Evidence of why the resident’s age, weight, or other factors would require a unique drug
dose, drug duration, indication, or monitoring; or
(7) Other evidence that substantiates the use of the restraint.

10.07.09.15 Abuse of Residents.

A. A nursing facility shall develop and implement policies and procedures prohibiting abuse and neglect of residents.

B. A nursing facility may not knowingly employ an individual who has been convicted of abusing or neglecting a resident or who has had a finding entered into the State Nurse Aide Registry concerning abuse or neglect of a resident or misappropriation of a resident’s property.

C. Reports of Abuse.

(1) A person who believes that a resident has been abused shall promptly report the alleged abuse to the:
   (a) Appropriate law enforcement agency;
   (b) Licensing and Certification Administration within the Department; or
   (c) The Office on Aging.

(2) An employee of a nursing facility who believes that a resident has been abused:
   (a) Shall report the alleged abuse as set forth in §C(1) of this regulation within 3 days after learning of the alleged abuse;
   (b) May be subject to a penalty imposed by the Secretary of up to $1,000 for failing to report an alleged abuse within 3 days after learning of the alleged abuse.

(3) An individual on whom a penalty has been imposed may request a hearing on the penalty by submitting a written request for a hearing to the Department on or before the 30th calendar day after the individual received notice of the imposition of the penalty.

(4) Upon receiving a request for a hearing under this section, the Secretary shall conduct a hearing in accordance with COMAR 10.01.03.

D. Investigations. A nursing facility shall:
   (1) Thoroughly investigate all allegations of abuse; and
   (2) Take appropriate action to prevent further incidents of abuse while the investigation is in progress, and after that.

E. Immunity from Civil Liability. An individual who, acting in good faith, makes a report under this regulation has immunity from liability described in Health-General Article, §19-347(g), Annotated Code of Maryland.