

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

CHAPTER 106

HEALTH CARE FACILITIES

Subchapter 29

Restraints, Safety Devices, Assistive Devices, and Postural Supports

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37.106.2901 RULE APPLICABILITY

(1) The provisions of the rules in this subchapter that govern the use of restraints do not apply to a category A personal care facility as defined in 50-5-227(2)(a), MCA, because such a facility is prohibited by law from accepting and serving any resident who is in need of medical, chemical or physical restraint.

(History: Sec. 50-5-103, 50-5-226, 50-5-227 and 50-5-1205, MCA; IMP, Sec. 50-5-103, 50-5-226, 50-5-227, 50-5-1202 and 50-5-1203, MCA; NEW, 2002 MAR p. 3159, Eff. 11/15/02.)

37.106.2902 DEFINITIONS The following definitions, in addition to those contained in 50-5-1202, MCA, apply to this chapter:

(1) "Assistive device" means any device whose primary purpose is to maximize the independence and the maintenance of health of an individual who is limited by physical injury or illness, psychosocial dysfunction, mental illness, developmental or learning disability, the aging process, cognitive impairment or an adverse environmental condition. If the device is primarily used to restrict an individual's movement, it is considered a safety device or restraint rather than an assistive device.

(2) "Licensed health care professional" means a physician, a physician assistant-certified, a nurse practitioner or a registered or practical nurse licensed in the state of Montana.

(3) "Medical symptom", as defined in 50-5-1202, MCA, means an indication of a physical or psychological condition or of a physical or psychological need expressed by the patient. For example, a concern for the resident's physical safety by any person listed in 50-5-1201(1), MCA, or a resident's fear of falling may constitute a medical symptom.

(4) "Postural support" means an appliance or device used to achieve proper body position and balance, to improve a resident's mobility and independent functioning, or to position rather than restrict movement, including, but not limited to, preventing a resident from falling out of a bed or chair. A postural support does not include tying a resident's hands or feet or otherwise depriving a resident of their use.

(5) "Restraint" means any method (chemical or physical) of restricting a person's freedom of movement that prevents them from independent and purposeful functioning. This includes seclusion, controlling physical activity, or restricting normal access to the resident's body that is not a usual and customary part of a medical diagnostic or treatment procedure to which the resident or the authorized representative has consented.

(6) "Safety devices", as defined in 50-5-1202, MCA, means side rails, tray tables, seat belts and other similar devices. The department interprets that definition to mean that a

safety device is used to maximize the independence and the maintenance of health and safety of an individual by reducing the risk of falls and injuries associated with the resident's medical symptom.

(History: Sec. 50-5-103, 50-5-226, 50-5-227 and 50-5-1205, MCA; IMP, Sec. 50-5-103, 50-5-226, 50-5-227, 50-5-1202 and 50-5-1203, MCA; NEW, 2002 MAR p. 3159, Eff. 11/15/02.)

Rule 03 reserved

#### 37.106.2904 USE OF RESTRAINTS, SAFETY DEVICES, ASSISTIVE DEVICES, AND POSTURAL SUPPORTS

(1) The application or use of a restraint, safety device or postural support is prohibited except to treat a resident's medical symptoms and may not be imposed for purposes of coercion, retaliation, discipline or staff convenience.

(2) A restraint may be a safety device when requested by the resident or the resident's authorized representative or physician to reduce the risk of falls and injuries associated with a resident's medical symptoms and used in accordance with 50-5-1201, MCA.

(3) To the extent that a resident needs emergency care, restraints may be used for brief periods:

(a) to permit medical treatment to proceed unless the health care facility has been notified that the resident has previously made a valid refusal of the treatment in question; or

(b) if a resident's unanticipated violent or aggressive behavior places the resident or others in imminent danger, in which case the resident does not have the right to refuse the use of restraints. In this situation:

(i) the use of restraints is a measure of last resort to protect the safety of the resident or others and may be used only if the facility determines and documents that less restrictive means have failed;

(ii) the size, gender, physical, medical and psychological condition of the resident must be considered prior to the use of a restraint;

(iii) a licensed nurse shall contact a resident's physician for restraint orders within one hour of application of a restraint;

(iv) the licensed nurse shall document in the resident's clinical record the circumstances requiring the restraints and the duration; and

(v) a restrained resident must be monitored as their condition warrants, and restraints must be removed as soon as the need for emergency care has ceased and the resident's safety and the safety of others can be assured.

(4) In accordance with the Montana Long-Term Care Residents' Bill of Rights, the resident or authorized representative is allowed to exercise decision-making rights in all aspects of the resident's health care or other medical regimens, with the exception of the circumstances described in (3)(b).

(5) Single or two quarter bed rails that extend the entire length of the bed are prohibited from use as a safety or assistive device; however, a bed rail that extends from the head to half the length of the bed and used primarily as a safety or assistive device is allowed.

(6) Physician-prescribed orthopedic devices used as postural supports are not considered safety devices or restraints and are not subject to the requirements for safety devices and restraints contained in these rules.

(7) Whenever a restraint, safety device, or postural support is used that restricts or prevents a resident from independent and purposeful functioning, the resident must be

provided the opportunity for exercise and elimination needs at least every two hours, or more often as needed, except when a resident is sleeping.

(8) All methods of restraint, safety devices, assistive devices and postural supports must be properly fastened or applied in accordance with manufacturer's instructions and in a manner that permits rapid removal by the staff in the event of fire or other emergency. (History: Sec. 50-5-103, 50-5-226, 50-5-227 and 50-5-1205, MCA; IMP, Sec. 50-5-103, 50-5-226, 50-5-227, 50-5-1201, 50-5-1202 and 50-5-1204, MCA; NEW, 2002 MAR p. 3159, Eff. 11/15/02.)

#### 37.106.2905 DOCUMENTATION IN RESIDENT'S MEDICAL RECORDS

(1) Prior to the use of a restraint or safety device, the following items must be included in the resident's record:

(a) a consent form signed by the resident or authorized representative that includes documentation that:

(i) the resident or the resident's authorized representative was given a written explanation of the alternatives and any known risks associated with the use of the restraint or safety device;

(ii) cites any pre-existing condition that may place a patient at risk of injury; and

(b) written authorization from the resident's primary physician that specifies the medical symptom that the restraint or safety device is intended to address and the type of circumstances and duration under which the restraint or safety device is to be used.

(2) When a restraint or safety device is used, the following items must be documented in the resident's record:

(a) frequency of monitoring in accordance with documented facility policy;

(b) assessment and provision of treatment if necessary for skin care, circulation and range of motion; and

(c) any unusual occurrences or problems.

(3) During a quarterly re-evaluation, a facility must consider:

(a) using the least restrictive restraint or safety device to restore the resident to a maximum level of functioning;

(b) causes for the medical symptoms that led to the use of the restraint or safety device; and

(c) alternative safety measures if a restraint or safety device is removed. Before removing a restraint or safety device, the resident or the authorized representative and the attending physician must be consulted.

(History: Sec. 50-5-103, 50-5-226, 50-5-227 and 50-5-1205, MCA; IMP, Sec. 50-5-103, 50-5-226, 50-5-227, 50-5-1201, 50-5-1203 and 50-5-1204, MCA; NEW, 2002 MAR p. 3159, Eff. 11/15/02.)

Rules 06 and 07 reserved

#### 37.106.2908 STAFF TRAINING

(1) Restraints, safety devices or postural supports may only be applied by staff who have received training in their use, as specified below and appropriate to the services provided by the facility.

(2) Staff training shall include, at a minimum, information and demonstration in:

(a) the proper techniques for applying and monitoring restraints, safety devices or postural supports;

(b) skin care appropriate to prevent redness, breakdown and decubiti;

- (c) active and passive assisted range of motion to prevent joint contractures;
  - (d) assessment of blood circulation to prevent obstruction of blood flow and promote adequate circulation to all extremities;
  - (e) turning and positioning to prevent skin breakdown and keep the lungs clear;
  - (f) potential risk for residents to become injured or asphyxiated because the resident is entangled in a bed rail or caught between the bed rail and mattress if the mattress or mattress pad is ill-fitted or is out of position;
  - (g) provision of sufficient bed clothing and covering to maintain a normal body temperature;
  - (h) provision of additional attention to meet the physical, mental, emotional and social needs of the resident; and
  - (i) techniques to identify behavioral symptoms that may trigger a resident's need for a restraint or safety device and to determine possible alternatives to their use. These include:
    - (i) observing the intensity, duration and frequency of the resident's behavior;
    - (ii) identifying patterns over a period of time and factors that may trigger the behavior; and
    - (iii) determining if the resident's behavior is:
      - (A) new or if there is a prior history of the behavior;
      - (B) the result of mental, emotional, or physical illness;
      - (C) or a radical departure from the resident's normal personality.
- (3) Training described in (2) must meet the following criteria:
- (a) training must be provided by a licensed health care professional or a social worker with experience in a health care facility; and
  - (b) a written description of the content of this training, a notation of the person, agency, organization or institution providing the training, the names of staff receiving the training, and the date of training must be maintained by the facility for two years.
- (4) Refresher training for all direct care staff caring for restrained residents and applying restraints, safety devices or postural supports must be provided at least annually or more often as needed. The facility must:
- (a) ensure that the refresher training encompasses the techniques described in (2) of this rule; and
  - (b) for two years after each training session, maintain a record of the refresher training and a description of the content of the training.
- (History: Sec. 50-5-103, 50-5-226, 50-5-227 and 50-5-1205, MCA; IMP, Sec. 50-5-103, 50-5-226, 50-5-227, 50-5-1204 and 50-5-1205, MCA; NEW, 2002 MAR p. 3159, Eff. 11/15/02.)

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