

**THE COMMONWEALTH OF MASSACHUSETTS**

**Department of Early Education and Care**

**Residential & Placement**

**Licensing**

**POLICY STATEMENT:**

**CHEMICAL AND MECHANICAL RESTRAINT**

Number: P-EEC-R&P-02

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EEC regulation 102 CMR 3.07(7)(j) states that the use of any form of restraint other than physical restraint is prohibited, unless the licensee obtains a variance prior to implementing the restraint in question.

**Restraint Definitions**

Restraint is defined as the use of any physical, mechanical or chemical means to temporarily control behavior. Mechanical and chemical restraint(s), when a variance has been granted, may be used only to protect the resident or other persons. The resident may only be restrained when he/she is demonstrating by his/her actions that he/she is dangerous to him/herself or to others. See 102 CMR 3.07(7)(j), *Behavior Management*.

Mechanical restraint is defined as the restriction by mechanical means of a resident's mobility and/or ability to use his or her arms or legs. Mechanical restraint(s) may never be attached to any fixed object. Mechanical means may include, but are not limited to: use of a safety coat, papoose board, blanket wraps, and/or use of a posey; any type of handcuffs, whether "soft cuffs", straps, ties of any material; and the use of any strap or tie around any part of the body, to temporarily control behavior. A protective device ordered by a physician such as a helmet is not considered a mechanical restraint. The requested use of protective hand mitts or arm splints to prevent self-injury when ordered by a physician and when the child voluntarily accepts such protections will be reviewed under 102 CMR 3.06(11), *Unusual or Extraordinary Treatment*.

Chemical restraint is defined as the administration of medication for the purpose of restraint. Medication administered according to the requirements and procedures for treatment authorized by a court (a Rogers order) is not a chemical restraint.<sup>1</sup> A medication taken voluntarily or in a non-emergency situation pursuant to a PRN ("as needed") order by a physician or other medical professional licensed to prescribe medication is not a chemical restraint.<sup>2</sup> An anti-psychotic medication administered involuntarily in an emergency to prevent immediate, substantial and irreversible deterioration of serious mental illness is not a chemical restraint. See 102 CMR 3.06(4)(k)3(f), *Antipsychotic Medication*.

## Variance Conditions

If a program believes a resident requires the use of chemical or mechanical restraint the program must request a variance from EEC prior to implementing the restraint. Separate variances must be requested individually for each resident for whom the program wishes to receive authorization. EEC will not issue a variance program-wide.<sup>3</sup> When a variance is granted it will expire in accordance with the terms of the variance or upon the expiration of the program's license whichever occurs first. Should a resident who has a variance for chemical or mechanical restraint be discharged, terminated or otherwise leave the program, the variance is not transferable to another program or another resident.

A variance to allow the use of mechanical or chemical restraint for any individual resident will not be considered until the following conditions are met:

1. The variance request must include:

- a. Information on the individual resident, including: name, date of birth, date of admission to the program; referral materials, all diagnoses, previous placement history, treatments utilized, incident reports, current behaviors which may warrant the use of mechanical or chemical restraint; statements from the parent/guardian of the resident and any other information regarding the resident that the program wishes EEC to consider in reviewing their request;
- b. Specific information on the type and nature of restraint(s) to be used;
- c. A mechanism for the approval of each use of such restraint by the chief administrative person or his or her designee;
- d. The conditions under which the restraint(s) is proposed to be used, including the resident's specific behaviors that will justify the use of the restraint;
- e. Procedures for consultation with treating physicians or other treating medical professional licensed to prescribe medications or protective devices in Massachusetts; such consultation to be documented in each resident's file;
- f. Risks associated with using the restraint and risks likely to occur if restraints are not used;
- g. Alternatives that will be used prior to initiating the use of restraints. In the case of chemical restraint use, the oral form of a medication (when an oral form exists) must be offered to any resident prior to the use of any other form of the medication;
- h. Provisions for constant staff supervision of the resident during the restraint. When chemical restraint is used, vital signs must be taken and documented immediately before the application or administration of the restraint, unless the ability to do so is obstructed by severely aggressive behavior; in addition vital signs must be taken and documented within the first hour after administration, and at hourly intervals thereafter until the

resident is calm and is no longer being restrained. Such vital signs are to be documented in the resident's file;

- i. A plan for circulation checks of each resident in mechanical restraint; such circulation checks are to be documented in the resident's file; and a plan for obtaining medical and/or clinical consultation for those situations in which the use of mechanical restraint may exceed one hour in duration;
- j. A procedure for documenting each use of restraint including:
  - (i) The name of resident; date and time restraint(s) were applied or administered and by whom;
  - (ii) Description of the incident, alternative interventions used prior to initiating the use of restraint(s) and the reasons restraint(s) were required;
  - (iii) Persons notified, when and from whom approval was obtained; staff member(s) assigned to directly supervise the residents and the names and responsibilities of any additional staff;
  - (iv) The date and time restraints were removed or discontinued;
  - (v) All other information required by 102 CMR 3.04(3)(i), *Incident Reports*.
- k. A plan for training staff regarding the appropriate use of the restraint(s) proposed, and when applicable the qualifications required of staff that are approved to perform the restraint.<sup>4</sup> Such a plan must include side effects of any restraint used in the program and procedures for notification of medical staff in an emergency.
- l. A detailed description for each resident of the plan for discontinuing the use of the proposed restraint that must include: tracking of the resident's use of the restraint; a documented review by the program's restraint safety committee, any injuries or serious incidents occurring while the restraint was in use; review of any complaints or grievances received regarding the use of the restraint, timeframes for agency review of the efficacy of the restraint and identification of how the agency will determine when the resident may no longer require the restraint, or when the resident may require an alternative placement. Each resident's tracking and each review by the restraint safety committee shall be documented and made available to the Office upon request.

2. If a resident needs to be mechanically restrained for a period longer than 15 minutes, an additional approval from the program's chief administrative person, or his or her designee, must be obtained and documented in writing. This person must be at least one level above the personnel involved in the incident that resulted in the restraint. Mechanical restraint may not be used for more than one hour without medical or clinical consultation; and such consultation must be documented in each resident's record.

3. Only in an emergency situation may medication be administered without parental consent or prior judicial approval and only if there is no less intrusive alternative to medication. Such emergency situations are limited to the occurrence or serious threat of

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<sup>4</sup> As required by OCCS regulation 102 CMR 3.06(4)(k)2, and applicable state law.

extreme violence, personal injury, or attempted suicide. Predictable crises are not within the definition of emergency.

4. If a resident is medicated in an emergency situation and the treating physician determines that the medication should continue, then the licensee shall immediately seek the consent of the parent(s) of a resident, where the parents have custody of their child. If parents of the resident do not have legal custody, the licensee shall seek consent of the person or agency that has legal custody or judicial approval where necessary for medicating the resident. If a resident is administered medication in an emergency situation, the licensee must notify the parents of the resident or the person or agency other than the parent who has legal custody of the child (e.g. the placement agency or out of state public or private agency or legal guardian) as soon after the emergency as possible.

5. The plan for the use of chemical restraint of residents must comply with the provisions of 102 CMR 3.06(4)(k)3, Antipsychotic Medication.