

**DIVISION CIRCULAR #20  
(N.J.A.C. 10:42)**

**DEPARTMENT OF HUMAN SERVICES  
DIVISION OF DEVELOPMENTAL DISABILITIES**

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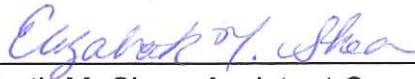
**I. TITLE: MECHANICAL RESTRAINT AND SAFEGUARDING EQUIPMENT**

**II. PURPOSE:** To provide the policies and procedures for the utilization of safeguarding equipment and mechanical restraints.

**III. SCOPE:** The circular applies to components of the Division as well as providers regulated by or under contract with the Division.

**IV. GENERAL STANDARDS:**

**NOTE:** The remainder of this circular is the Mechanical Restraint and Safeguarding Equipment rules which appear at N.J.A.C. 10:42.



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Division of Developmental Disabilities

## **SUBCHAPTER 1. GENERAL PROVISIONS**

### **10:42-1.1 Purpose**

The purpose of this chapter is to detail the policies and procedures for the utilization of safeguarding equipment and mechanical restraints. Every effort should be made to reduce or eliminate the use of mechanical restraints and safeguarding equipment in favor of less restrictive measures. The use of mechanical restraints and safeguarding equipment must be justified by health and safety concerns related to preventing behaviors that may cause significant injury or other compromise to the health and well-being of the individual or others. Individuals are to be provided appropriate behavioral supports in accordance with best practices.

### **10:42-1.2 Scope**

This chapter applies to components of the Division of Developmental Disabilities, as well as providers regulated by or under contract with the Division.

### **10:42-1.3 Definitions**

For the purpose of this chapter, the following terms shall have the following meanings:

“Assistant Commissioner” means the Assistant Commissioner of the Division of Developmental Disabilities.

“Authorizing personnel” means a person designated by the chief executive officer, regional administrator, or executive director to order or authorize mechanical restraints, who meets or exceeds the requirements of a qualified intellectual disabilities professional, and has completed the training requirements of N.J.A.C. 10:42-3.2.

“Behavior Policy Review Committee” means a group of professionals with clinical expertise in behavior management that are appointed by the Assistant Commissioner to review and approve policy and procedure.

“Behavior support committee” means a group of professionals with clinical expertise within the Division component or provider that reviews behavior support plans and determines whether plans are clinically and technically appropriate. These committees act as an advisory body to the chief executive officer, regional administrator, or executive director.

“Behavior support plan” means a comprehensive, individualized, procedural plan of specific actions to be taken in advance of and/or subsequent to the occurrence of a target behavior, the purpose of which is to modify the frequency, duration, and/or intensity of the target behavior, facilitate alternative positive behaviors,

and, as needed, to identify safety mechanisms to be utilized to protect the individual and others from harm.

“Chief executive officer” (CEO) means the person having administrative authority over, and responsibility for, a State-operated developmental center or a private licensed facility for persons with developmental disabilities under N.J.A.C. 10:47.

“Continual observation” means that the person in mechanical restraint can be seen by a staff member who is present in the room at all times.

“Department” means the Department of Human Services.

“Division” means the Division of Developmental Disabilities.

“Executive director” means the individual with administrative authority over a residential program licensed in accordance with N.J.A.C. 10:44A, Standards for Community Residences for Individuals with Developmental Disabilities, 10:44C, Standards for Community Residences for Persons with Head Injuries, and 10:47, Standards for Private Licensed Facilities for Persons with Developmental Disabilities; or an agency under contract with or regulated by the Division.

“Highly restrictive mechanical restraint” means a type of mechanical restraint whose use is considered to be intrusive, and can restrict circulation, breathing, or render an individual vulnerable to other persons in the immediate area.

“Human rights committee” (HRC) means a group comprised of professionals, individuals served, advocates, and/or interested individuals from the community at large who function as an advisory body to the chief executive officer, executive director, or regional administrator on issues directly or indirectly affecting the rights of individuals served by the Division, in accordance with N.J.A.C. 10:41A.

“Informed consent” means a formal expression, oral or written, of agreement with a proposed course of action by an individual who has the capacity, the information, and the ability to render voluntary agreement on his or her own behalf or by someone with legal authority to act on another’s behalf.

“Interdisciplinary Team” (IDT) means an individually constituted group responsible for the development of a single, integrated service plan. The team shall consist of the individual receiving services; the legal guardian, the parents or family member (if the adult desires that the parent or family member be present); those persons who work most directly with the individual served; and professionals and representatives of service areas who are relevant to the identification of the individual’s needs and the design and evaluation of programs to meet them.

“Mechanical restraint” means a device utilized by staff to intervene when a behavior will likely endanger the health or safety of the individual or others and less restrictive techniques have proved ineffective or not feasible. The device is attached to or adjacent to an individual’s body and restricts partial or total freedom of movement or normal access to portions of the individual’s body. The use of totally enclosed beds, papoose boards, and standing boxes shall be prohibited as a mechanical restraint.

“Physical distress” means the individual is exhibiting one or more of the following: difficulty breathing; choking; vomiting; bleeding; fainting; unconsciousness; discoloration; swelling at points of restraint; appearance of pain; cold extremities or similar manifestations.

“Qualified intellectual disabilities professional (QIDP)” means a person who meets no less than the qualifications as required by 42 CFR Subpart I, Section 483.430.

“Regional administrator” means the person having administrative authority and responsibility over a region of community services.

“Safeguarding equipment” means devices that restrict movement used to provide support for the achievement of functional body position or proper balance; devices used for specific medical, dental, or surgical treatment; and devices to protect the individual from symptoms of existing medical conditions, including, but not limited to, seizures and ataxia.

“Service plan” means a written, individualized habilitation plan, consistent with the requirements of N.J.S.A. 30:6D-10 through 12, developed by the IDT. It is an outcome-based planning tool that, at a minimum, identifies each individualized program, support, and/or service requested by and provided to the individual, for which the individual demonstrates a need. It identifies the person and/or provider responsible for its implementation. The complexity of the service plan will vary according to the individual’s interests, preferences, and needs. The service plan format must be Division approved.

“Unusual incident” means an event involving an individual served by the Division or employee of the Division or an agency under contract with or regulated by the Division, involving indications or allegations of criminal actions, injury, negligence, exploitation, abuse, clinical mismanagement or medical malpractice; a major unforeseen event, for example, serious fire, explosion, power failure, that presents a significant danger to the safety or well being of individuals served and/or employees; or a newsworthy incident. In this chapter, the term “incident” shall refer to an unusual incident.

#### **10:42-1.4 General requirements**

- (a) The Division recognizes that the risk of dangerous behavior may be minimized when the following conditions are made available to the individual:
1. A safe environment, which provides sufficient living area, employs effective sanitary practices, and affords the opportunity for personal privacy;
  2. Access to needed services, activities, and possessions which are based on choice and individual preference;
  3. Frequent communication and positive interactions with others;
  4. Culturally sensitive treatment, which recognizes, through words and actions, that the individual is a valued and respected person;
  5. Opportunity for the development of appropriate social, communication, coping, and other life skills;
  6. Meaningful participation in the community including support for and development of relationships with family and friends; and
  7. Appropriate treatment for medical conditions and mental health issues.
- (b) Devices, such as bed rails, mitts, jumpsuits, arm splints, vests, helmets, and body harnesses may be used as either a mechanical restraint or safeguarding equipment, depending upon the circumstances. For example, a helmet used to prevent injury due to seizures is a safeguarding device. Use of a helmet to prevent injury due to self-injurious behavior is considered a mechanical restraint.
- (c) Primary reliance on punishment, physical, or mechanical restraints, or aversive techniques to decrease undesirable behavior is contrary to Division policy. Mechanical restraints are considered to be appropriate only when absolutely necessary and their use shall be minimized in favor of other, more positive interventions.
- (d) When highly restrictive mechanical restraints are in use, continual observation by staff is required to recognize obvious signs of physical distress.
- (e) All devices shall be applied only by staff trained in their use and applications.
- (f) The need for the particular device to be used as safeguarding equipment or for behavioral intervention shall be documented in the service plan and re-evaluated no less than annually as a part of the service plan review or as specified by the Interdisciplinary Team in the service plan.

- (g) Only commercially produced devices shall be employed as mechanical restraints. If a special device must be developed, the need for the device shall be:
  - 1. Documented in the service plan;
  - 2. Approved by the behavior support committee;
  - 3. Approved by the appropriate human rights committee;
  - 4. Approved by the CEO or executive director;
  - 5. Approved by the Behavior Policy Review Committee; and
  - 6. Approved by the Assistant Commissioner.
- (h) All safeguarding equipment shall be prescribed by a licensed physician. With regard to dental matters, the safeguarding equipment shall be prescribed by a dentist.
- (i) Safeguarding equipment may be used on a temporary basis to conduct medical and dental evaluations, examinations, or treatments when the individual's behavior prevents the evaluation, examination, or treatment.
- (j) Mechanical restraints shall be inspected following each use to ensure safety. They shall remain clean, in good condition, and free from damage that may cause injury.
- (k) The Division may require a service provider to terminate restraint usage for an individual if any requirements of this chapter are violated.

## **SUBCHAPTER 2. SAFEGUARDING EQUIPMENT AND MECHANICAL RESTRAINTS**

### **10:42-2.1 Use of safeguarding equipment**

- (a) The use of safeguarding equipment shall be initiated on the prescription of a physician.
- (b) A physician shall document in the client record the need for safeguarding equipment and the specific device to be applied. That prescription shall indicate the specific medical condition for which the safeguarding equipment is to be used and the length of time permitted for its use. The prescription shall be included in the client record.
- (c) If the equipment is used to prevent accidental injury, the physician shall document the specific medical condition that warrants its use. The equipment is

to be used to address a specific symptom of the individual's medical condition, which is not likely to be changed through behavioral supports.

- (d) Once the physician has documented the need for safeguarding equipment, the need shall be reviewed by the individual's IDT. If the use of the safeguarding equipment is consistent with the goals and objectives in the individual's service plan and can be implemented, the use of the safeguarding equipment shall be included in the IHP.
- (e) If the use of the safeguarding device cannot be integrated into the service plan, the IDT shall meet to revise the plan to provide for the individual's safety and habilitation needs. The IDT shall meet within 10 working days from the initial application for a safeguarding device.
- (f) The need for safeguarding equipment shall be reviewed as part of the service plan no less than annually.
- (g) The continued need for a safeguarding device shall be authorized by a physician in the client record at least annually.

#### **10:42-2.2 Mechanical restraints**

- (a) Mechanical restraints may be utilized only as follows:
  - 1. As an emergency measure to manage the risks associated with severe forms of inappropriate behavior that endanger the health and safety of the individual or others when other forms of protection are judged to be insufficient; or
  - 2. As part of an approved behavior support plan.
- (b) A facility or service provider may implement a program of mechanical restraint only with specific authorization of the Assistant Commissioner or designee.
- (c) The individual shall be immediately released if he or she appears to be in physical distress or the individual's behavior no longer presents a risk.
- (d) The individual must be placed in the least restrictive form of mechanical restraint unless clinical evidence to justify the use of a more restrictive technique is available.
- (e) Only personnel who have successfully completed a training program approved by the Division shall be permitted to apply, monitor, and release mechanical restraints.

- (f) Whenever an individual exhibits serious assaultive, self-injurious, or destructive behavior, controllable only by use of mechanical restraint, the interdisciplinary team shall meet to identify possible causes and develop strategies to address the behavior. The interdisciplinary team shall review the functional behavior assessment, functional behavior analysis, and clinical assessments performed on an individual and/or obtain such information if these procedures have not been completed.

#### **10:42-2.3 Prohibited practices**

- (a) The use of mechanical restraints and safeguarding equipment are prohibited as:
  - 1. Disciplinary procedures;
  - 2. A form of retaliation or coercion;
  - 3. Measures for the convenience of staff; or
  - 4. Substitutes for skill development efforts, other systematic environmental modifications, or therapeutic interventions.
- (b) It is prohibited to place a pillow, blanket, towel, or other items over the face of an individual or to otherwise cover their eyes, ears, nose, or mouth.
- (c) Totally enclosed beds are prohibited as a mechanical restraint. The enclosed space on barred enclosures without tops shall not exceed three feet in height.

### **SUBCHAPTER 3. APPLICATION AND IMPLEMENTATION**

#### **10:42-3.1 Application to use mechanical restraint**

- (a) Each facility or service provider requesting approval to utilize mechanical restraints shall submit comprehensive written procedures governing the use of restraint to the Behavior Policy Review Committee. Approval or disapproval of an entity's procedures shall be based on the facility, program, or provider's ability to safely and appropriately implement the procedures, as well as provide staff training.
- (b) The procedure submitted shall include the following:
  - 1. A statement specifically identifying the forms of mechanical restraint to be used and the number of trained staff that shall be available to apply restraints;



2. Identification of the training curriculum to be followed, with diagrams, photographs, or graphs, and a narrative description providing instructions for the safe application of each mechanical restraint;
3. Identification of the trainers' qualifications;
4. A statement that authorizing personnel meet the requirements of this chapter and have been so designated by the executive director or CEO;
5. A statement that staff who may need to use mechanical restraints have been trained in accordance with this chapter and receive at least an annual assessment of competence and retraining as necessary. The facility or service provider must maintain documentation of such training and assessment;
6. A statement that continual observation by staff and documented checks at 15-minute intervals, consistent with this chapter, shall be required for the use of mechanical restraints;
7. A statement requiring immediate medical attention in response to injury or physical distress that occurs during the use of a mechanical restraint;
8. A process for analyzing and reviewing the use of mechanical restraints for the purpose of reducing reliance upon mechanical restraints;
9. Statements indicating that any application of approved mechanical restraints that results in injury or is at variance with an agency's Division-approved curriculum or procedure shall be reported as an unusual incident. If determined necessary:
  - i. The staff member shall be retrained and shall demonstrate that he or she can safely apply the mechanical restraint before being allowed to again use that restraint; and
  - ii. Disciplinary action shall be taken if the actions were abusive or neglectful.
10. Statements indicating that the legal guardian or parent, as applicable, shall be advised by telephone or preferred method of communication within 24 hours of an emergency use of a mechanical restraint not provided for in a behavior support plan; and
11. Provisions for addressing the emotional needs of the individual(s) and staff involved in the use of a mechanical restraint. If an individual's behavior support plan or service plan specifies how their emotional needs shall be addressed, these shall be followed.

**10:42-3.2 Staff training requirements**

- (a) Only training reviewed and approved by the Division's Behavior Policy Review Committee may be used.
- (b) Authorizing personnel shall be trained in the use and authorization requirements of this chapter.
- (c) All use of mechanical restraints shall be applied and monitored by staff members who have been trained in their use and application, as described in (d) below.
- (d) Any entity that is approved to use mechanical restraints shall train staff members in the use of procedures specific to the needs of individuals receiving services. Training shall include, but is not limited to:
  - 1. Requirements of this chapter for mechanical restraints and the provider's Division-approved procedures;
  - 2. Methods to prevent or minimize the behavior that led to staff intervention as described in the definition of "mechanical restraint";
  - 3. De-escalation techniques;
  - 4. Instructions on the implementation of mechanical restraints, including the trainee experiencing being restrained;
  - 5. A demonstration by the trainee of the proper use of the authorized mechanical restraint on an annual basis or as necessary;
  - 6. Recognition of signs of distress;
  - 7. Restraint removal or release as applicable, including the need for continuous reassessment of the ability to lessen or remove the restraint;
  - 8. Documentation required pursuant to this chapter; and
  - 9. Follow-up procedures, as necessary.

**10:42-3.3 Implementation standard: developmental centers and private licensed facilities for persons with developmental disabilities licensed pursuant to N.J.A.C. 10:47**

- (a) Following approval by the Behavior Policy Review Committee, for use of mechanical restraints, the following standards shall apply:

1. The IDT shall review the client record to identify potential areas of increased risk in the application of mechanical restraints for the individual due to medical conditions, mental health status, physical functioning, or other personal characteristics. If potential areas of increased risk are identified, the IDT shall obtain an opinion from a physician that the technique to be employed is not medically contraindicated for the individual prior to an initial restraint authorization.
2. In an emergency situation, the authorizing personnel shall be responsible for authorizing the use of a mechanical restraint.
3. As soon as possible, but in less than 24 hours, a physician must review and countersign each "emergency" restraint order.
4. An emergency restraint order shall be effective for not more than one hour. If a new order is issued, all authorization shall be renewed.
5. Emergency restraint orders shall include documentation of the type of mechanical restraint authorized, the length of time to be applied, the reason for restraint, and any special instruction. Each restraint order must be signed and dated by the authorizing personnel.
6. Individuals placed in highly restrictive forms of mechanical restraint shall be under continual observation by staff trained to recognize signs of physical distress.
7. While in a mechanical restraint, documentation of a physical check by a staff member every 15 minutes is required. The check shall document the following:
  - i. Whether the continued use of the restraint is necessary; and
  - ii. Whether the restraint is applied in accordance with principles of good body alignment, a concern for circulation and allowance for change of position.
8. The individual shall be released immediately if he or she appears to be in physical distress or the individual's behavior no longer presents a risk. In the event the individual cannot be released within 10 minutes, efforts to loosen or change the position of the restraint must be attempted. Documented attempts to release each limb separately for a 10-minute period shall be made.
9. The use of mechanical restraints, such as jumpsuits or open-faced helmets does not require 15-minute checks. The individual does not have

to be removed from the restraint for a 10-minute period during each hour since it does not restrict range of motion.

10. The individual's personal hygiene and nutritional needs shall be met while in restraint.
11. If a partially enclosed bed is used as a safeguarding device, documentation of 15-minute checks shall not be required. It is not necessary to remove the individual from a partially enclosed bed for 10 minutes during each hour of use if it is used for sleeping. If a partially enclosed bed is used as a mechanical restraint, 15-minute checks shall be required.
12. The nature, reasons for and notation of each staff check shall be recorded in the client record.
13. Whenever a mechanical restraint is used pursuant to N.J.A.C. 10:42-2.2(a)1, a special meeting of the IDT must be held to review current programming and alternatives. If the recurrence of the behavior that required the use of the restraint may be anticipated, a behavior support plan shall be considered, and if appropriate, developed or modified to address the behavior.
14. An unusual incident report shall be completed, if the use of the restraint is unauthorized, improperly implemented, or causes injury to the individual.
15. When mechanical restraints are used for an individual three times in any contiguous six-month period and are not included in a behavior support plan, the IDT shall forward the results of their review conducted pursuant to N.J.A.C. 10:42-3.4(a)13 to a Division HRC within 15 working days.
16. A Division HRC shall review the pertinent circumstances surrounding the utilization of the emergency mechanical restraints reported by the IDT. The results of the Division HRC review shall be forwarded to the Assistant Commissioner or designee within 10 days.

**10:42-3.4 Implementation standards: community programs for persons with developmental disabilities**

- (a) Following approval by the Behavior Policy Review Committee for the use of mechanical restraints, the following shall apply:
  1. The IDT shall review the client record to identify potential areas of increased risk in the application of mechanical restraints for the individual due to medical conditions, mental health status, physical functioning, or other personal characteristics. If potential areas of increased risk are

identified, the IDT shall obtain an opinion from a physician that the technique to be employed is not medically contraindicated for the individual prior to an initial restraint authorization.

2. In an emergency situation, the authorizing personnel shall be responsible for authorizing the use of a mechanical restraint.
3. Whenever possible, the emergency restraint order shall be immediately signed by the authorizing personnel. However, the use of mechanical restraint may be authorized over the telephone by the authorizing personnel in accordance with the following:
  - i. Such approval is strictly temporary and the emergency restraint order shall be reviewed and signed by the authorizing personnel as soon as possible but at least within 12 hours of its application; and
  - ii. The specific circumstances necessitating approval over the telephone shall be part of the client record and include the name of the staff member requesting the restraint.
4. An emergency restraint order shall be effective for not more than one hour. If a new order is issued, all authorization shall be renewed.
5. Emergency restraint orders shall include documentation of the type of mechanical restraint authorized, the length of time to be applied, the reason for restraint, and any special instruction for utilizing the restraint. Each restraint order must be signed and dated by the authorizing personnel.
6. Individuals placed in highly restrictive forms of mechanical restraints shall be under continual observation by staff trained to recognize signs of physical distress.
7. While in mechanical restraint the individual shall be checked by a staff member every 15 minutes. The check shall document the following:
  - i. Whether the continued use of the restraint is necessary; and
  - ii. Whether the restraint is applied in accordance with principles of good body alignment, a concern for circulation and allowance for change of position.
8. The individual shall be released immediately if he or she appears to be in physical distress or the individual's behavior no longer presents a risk, unless otherwise specified in the individual's behavior support plan. In the event the individual cannot be released within 10 minutes, efforts to

loosen or change the position of the restraint must be attempted. Documented attempts to release each limb separately for a 10-minute period shall be made.

9. The use of mechanical restraints, such as jumpsuits or open-faced helmets does not require 15-minute checks. The individual does not have to be removed from the restraint for a 10-minute period during each hour of use since it does not restrict range of motion.
10. The nature, reasons for and notation of each staff check shall be recorded in the client record.
11. The individual's personal hygiene and nutritional needs shall be met while in restraint.
12. An unusual incident report shall be completed if the use of the restraint is unauthorized, improperly implemented, or causes injury to the individual.
13. Whenever a mechanical restraint is used pursuant to N.J.A.C. 10:42-2.2(a)1, a special meeting of the IDT must be held to review current programming and alternatives. If the recurrence of the behavior that required the use of the restraint may be anticipated, a behavior support plan shall be considered, and if appropriate, developed or modified to address the behavior.
14. When mechanical restraints are used for an individual three times in any contiguous six-month period and are not included in a behavior support plan, the IDT shall forward the results of their review conducted pursuant to (a)13 above to a Division HRC within 15 working days.
15. A Division HRC shall review the pertinent circumstances surrounding the utilization of the emergency mechanical restraints reported by the IDT. The results of the Division HRC review shall be forwarded to the Assistant Commissioner or designee within 10 days.

#### **10:42-3.5 Quality management**

- (a) Consistent with the entity's Division-approved policies and procedures established pursuant to N.J.A.C. 10:42-3.1, entities shall establish a process for analyzing restraint utilization and reviewing the use of mechanical restraints for the purpose of reducing reliance upon mechanical restraints, quality improvement, and risk management.
  1. Each entity that employs mechanical restraints shall have a committee that provides oversight by meeting, reviewing, and documenting the

review of the use of mechanical restraints. These reviews shall include examination of trends and patterns of use.

2. Entities utilizing mechanical restraints must have a mechanism for reviewing all use and identifying future prevention measures with the goal of reducing or eliminating all use. This can be included in the entity's overall quality management plan.
3. Entities must collect and maintain data on all use of mechanical restraints and regularly analyze such data to identify trends in use by entity, program/service, and individual.
4. Entities utilizing mechanical restraints pursuant to N.J.A.C. 10:42-2.2(a)1 or 2 shall provide the Division with data on the use of these restraints.
5. Entities utilizing mechanical restraints must review all incidents related to injury or unauthorized use and implement corrective action. A mechanism to analyze use incidents and determine future prevention measures is required.
6. Entities utilizing mechanical restraints are required to maintain documentation of the implementation of teaching strategies or alternate program activities intended to increase the individual's capacity to utilize and/or respond to more proactive and positive coping strategies that are intended to replace the use of mechanical restraints.

#### **SUBCHAPTER 4. MEDICAL OR DENTAL EVALUATIONS, EXAMINATIONS, OR TREATMENT**

##### **10:42-4.1 Use of safeguarding equipment for medical or dental evaluations, examinations, or treatment**

- (a) The physician or dentist may use or direct the use of restraint to accomplish a needed evaluation, examination, or treatment. Such use shall be documented in the client record.
- (b) Informed consent shall be required unless an emergency exists.
- (c) In the judgment of the physician or dentist, when there is an emergency, he or she may use or direct the use of safeguarding equipment to accomplish a needed evaluation, examination, or treatment. Such use shall be documented in the client record.
- (d) Safeguarding equipment shall be used under the continuous observation of the physician or dentist or designee. The individual shall be released upon completion of the necessary procedures.

- (e) At no time shall the individual be permitted to remain in safeguarding equipment for the convenience of staff, including pre- and post-treatment.