



MENTAL HEALTH BULLETIN

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF PUBLIC WELFARE

DATE OF ISSUE

August 30, 1995

EFFECTIVE DATE

IMMEDIATELY

NUMBER

SMH-95-02

SUBJECT

The Use of Mechanical Restraint for Custody Purposes by State Mental Hospital Forensic Centers

BY

Deputy Secretary for Mental Health

SCOPE:

State Mental Hospital Adult Forensic Centers

PURPOSE:

This bulletin revises MH Bulletin 99-87-03, consistent with forensic policy changes promulgated by MH Bulletin OMH-91-04. Its purpose is: (1. to ensure that mechanical restraint for custody purposes is uniformly used when forensic patients are escorted for medical treatment outside the secure perimeters of the forensic centers; (2. to expand and identify the types of restraint which may be used for this purpose; (3. and to establish procedures for their use.

This bulletin does not affect required compliance with Chapter 13 Regulations, which govern the use of seclusion and restraint as clinical interventions for the purpose of psychiatric treatment in any State mental hospital.

BACKGROUND:

Persons charged with a serious criminal act, found Not Guilty by Reason of Insanity or convicted may be subsequently committed by the courts to a State mental hospital forensic center. The Mental Health Procedures Act requires that the forensic center maintain conditions of criminal detention equal to those imposed by the jail or prison in which the patient would otherwise be subject to incarceration. Patients for whom the court does not believe criminal detention is necessary are committed to civil state mental hospitals. Conditions of criminal detention include the exercise of "custody and control" over the patient, mandates which are not applicable to civil patients in State mental hospitals. Procedures, policies and environmental features designed to provide "custody and control" are intended to prevent the escape of the patient and to preclude the commission of additional criminal acts. Escape from the custody of a forensic center constitutes a felony in Pennsylvania. The forensic centers, therefore, must assume the dual roles of providing inpatient psychiatric evaluation and treatment while ensuring that criminal custody and control is maintained.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

**Bonnie Bardenstine, Bureau of Adult Services, Office of Mental Health at
(717) 787-1948.**

Each forensic center has physical plant and procedural controls which create a "secure perimeter", intended to prevent unauthorized movement in and out of the facility: Treatment for forensic patients occurs within this secure perimeter. Forensic patients are transported outside of this perimeter by hospital staff only as necessary to receive specialized medical diagnostic and treatment services in the community or in non-secure clinic areas of the host hospital. Transportation and treatment outside of the secure perimeter increases the risk of escape and requires use of special security measures.

Consequently, it has been the policy of the Office of Mental Health since the early 1980s to require the use of mechanical restraint to maintain custody of forensic patients whenever the patient is escorted outside of the secure perimeter by hospital staff. Authority for the use of mechanical restraints for security purposes is found in Section 422 of the 1966 WMR Act (50 P. S. Sec. 422) . which defines the two circumstances in which a patient may be placed in mechanical restraints:

- 1) "When necessary to prevent such a person from harming himself or others when being transported." and
- 2) "Whenever the Director of a facility or his designee determines that such are required by the medical needs of such person admitted or committed, in which case the same may be used or applied only in accordance with regulations of the Department. "

Use of mechanical restraint to maintain custody and control of persons subject to criminal detention while they are outside the secure perimeter of the forensic hospital is not a medical or treatment usage, and is, therefore, not covered by the 55 Pa. Code Chapter 13 regulations. To guide use of mechanical restraint for custody purposes, Mental Health Bulletins 99-84-46 and MH 99-87-03 established specific policies and procedures governing use during transportation and off-unit medical care. Under the provisions of these Bulletins, the nature and application of these restraints varied among forensic facilities based on a center's designation as a medium or maximum security facility. In 1991, Bulletin OMH-91-04 created one level of forensic security, and assigned patients to the Regional Forensic Centers and Farview State Hospital on the basis of legal status and jurisdiction, rather than on the severity of the criminal charge. Consequently, all forensic centers were expected to employ equivalent security measures to ensure the continued criminal detention of their patients.

MH Bulletin 99-87-03 mandated that restraints used for security purposes be constructed of leather or nonmetallic outer services, preferably reinforced by metal cables or mesh to improve their undefeatability. However, metal reinforced leather and plastic restraints are no longer manufactured, and the supply on hand has deteriorated from use. None the less, the three regional forensic centers remained limited to use of leather or plastic restraints, which are more easily defeated. Consequently, center staff, administrators, and DPW legal counsel, criminal justice officials and

security review teams have recommended that all forensic centers be given the option of using metal restraints during the transport and outside treatment of patients deemed to present a high risk of attempted escape or other criminal activity at these times.

POLICY :

Restraints for custody purposes shall be employed whenever a patient committed to an adult forensic center is transported by hospital staff outside the secure perimeter. A physician's order is not needed for the use of restraint for this purpose. The choice between leather or metal restraints, and the number of additional points of restraint than those mandated by this bulletin, shall be made at the discretion of the hospital 's superintendent, the forensic center director or designee. This decision shall be based on the patient's perceived risk of escape and potential danger to the community, as has been assessed and documented by the treatment team. The restraints employed shall be described in the ward's forensic log and the medical record each time the patient leaves the secure perimeter with hospital staff.

Exception to the use of either the minimum level of restraint as described in this bulletin or the level selected by the superintendent/center director or designee may only be made if a forensic center physician determines such restraints to be medically or psychiatrically contraindicated. The physician must document in the patient's medical record the medical or psychiatric reasons why the use of lesser or no mechanical restraint is necessary each time the patient is escorted outside the secure perimeter. After making this medical determination, the physician must promptly notify the nursing supervisor and the hospital superintendent/center director or designee, who will make provisions for alternate means of ensuring that custody is maintained outside of the secure perimeter. Alternate means could include assignment of extra escort staff, use of other types of restraint, etc. When the hospital superintendent center director disagrees with the patient's physician regarding the number or type of restraints to be imposed a third and binding medical opinion shall be obtained from the Hospital's clinical director, following a review of the medical and the security considerations involved. This decision will be documented in the medical record and noted in the forensic log and the medical record, and shall be reassessed on each occasion of outside transport.

While a patient is in restraint for custody purposes, he or she shall be directly supervised at all times by at least one Forensic Security Employee (PSA) , unless the specific medical procedure precludes staff presence (X-Ray, CT Scan, surgery, etc.). Forensic center policies shall be developed to describe how security will be maintained when escort staff cannot provide line-of-sight observation to the patient, and when restraints must be removed to permit completion of specific diagnostic and treatment procedures.

Escorting FSEs shall promptly report (by phone or two way radio) to their nursing supervisors any physical symptoms or patient complaints of discomfort which appear to relate to the use of the mechanical restraints. FSEs shall alternate the limb(s) being restrained as necessary to ensure patient comfort and safety without reducing the number and type of restraints, or jeopardizing custody. During this procedure, existing restraints should not be removed until new restraints are applied.

PROCEDURES:

1. USE OF RESTRAINT DURING TRANSPORTATION AND AMBULATION OUTSIDE OF THE SECURE PERIMETER

At a MINIMUM, the restraint used to maintain criminal detention during transportation and ambulation outside of the secure perimeter shall consist of two-point wrist restraint attached to a belt affixed around the patient's waist, with the arms positioned at the front or the sides or two-point ankle restraint.

2. USE OF RESTRAINT DURING MEDICAL PROCEDURES

When a forensic patient is receiving medical diagnostic or treatment services on an inpatient or outpatient basis in a community hospital or clinic, or in a non-secure area of the host hospital, a MINIMUM of one point restraint shall be employed while the patient is confined to a bed or fixed position chair. The patient shall be restrained to the bed or chair by one wrist or one ankle.

When a wheelchair or gurney is used to transport a patient within an external medical facility, restraint shall be used to secure the patient to the conveyance at two points.

3. REMOVAL OR MODIFICATION OF RESTRAINTS DURING MEDICAL PROCEDURES:

During treatment in an external medical facility, it may be necessary to temporarily remove or modify the mode of restraint to accommodate medical procedures. The authority to reduce the number or type of restraint used for custody purposes rests with the state mental hospital superintendent/forensic center

Director/or designee, unless removal or reduction is necessary for the performance of a medical procedure or to respond to a medical emergency. In the event that reduction or removal of restraint is deemed essential by the external attending physician for the performance of a specific medical procedure or in response to a medical emergency. escorting FST's may remove/reduce restraint as necessary for the duration of the procedure or response, without obtaining approval from the state mental hospital .

However, if the external treating facility requests removal or reduction of restraint for reasons other than a special medical procedure or the need to respond to a medical emergency, authorization for this removal or reduction must be obtained directly by the requesting physician from the superintendent/forensic center director or designee . The state mental hospital superintendent/forensic center director or designee who authorizes the removal or reduction in restraint for causes other than medical necessity shall notify the nursing supervisor on the patient's ward of residence of this decision. The nursing supervisor will inform the escorting FST(s) by telephone, and will document the decision in the ward's forensic log and the patient(s) medical record, including the name of the decision maker, the time, date and to whom the direction to remove or reduce restraint was made, the rationale for this decision, and condition(s) under which restraint will be reapplied or returned to its former level.

State mental hospital policies and procedures shall be developed by each forensic center director and approved by the hospital superintendent which designate authority for the decisions described in this bulletin, ensure timely documentation of decisions and promote necessary communication among the administrative decision makers, medical and nursing staff.

The hospital superintendent/designee is responsible for communicating these Policies and procedures to external medical facilities providing services to forensic patients. Procedures to ensure effective communication between State mental hospital and community medical facility staff and to resolve disputes about the use of restraints for custody purposes shall be included in written contracts and agreements between the facilities.

IMPLEMENTATION TIME - LINE AND STAFF TRAINING:

This bulletin will take effect within 60 days of issue. During that time, the forensic centers shall develop local policies and procedures to ensure its implementation, and will provide training to all staff involved in implementation.

Annual refresher training on these policies and procedures shall be provided to all forensic unit staff, and included in the orientation program for new hires.

OBSOLETE BULLETINS :

Mental Health Bulletin 99-87-03. "Use of Restraints for Security Purposes in the Management of Patients Placed in the Forensic System"

RELATED BULLETINS:

Mental Health Bulletin OMH 91-04. "Adult Forensic System Program Components, Admissions, Transfers. Level of Care and Service Area Designations"