

§482.13(e)(5) - The use of restraint or seclusion must be in accordance with the order of a physician or other licensed practitioner who is responsible for the care of the patient and authorized to order restraint or seclusion by hospital policy in accordance with State law.

Interpretive Guidelines §482.13(e)(5)

Hospitals must have policies and procedures for the initiation of restraint or seclusion that identify the categories of licensed practitioners (LPs) that are permitted to order restraint or seclusion in that hospital, consistent with State law.

The regulation requires that a physician or other LP responsible for the care of the patient to order restraint or seclusion prior to the application of restraint or seclusion. In some situations, however, the need for a restraint or seclusion intervention may occur so quickly that an order cannot be obtained prior to the application of restraint or seclusion. In these **emergency application situations**, the order must be obtained either during the emergency application of the restraint or seclusion, or immediately (within a few minutes) after the restraint or seclusion has been applied. The failure to immediately obtain an order is viewed as the application of restraint or seclusion without an order. The hospital should address this process in its restraint and seclusion policies and procedures. The policies and procedures should specify who can initiate the emergency application of restraint or seclusion prior to obtaining an order from a physician or other LP.

Licensed Practitioner (LP)

For the purpose of ordering restraint or seclusion, an LP is any practitioner permitted by

State law and hospital policy as having the authority to order restraints or seclusion for patients.

A resident who is authorized by State law and the hospital's residency program to practice as a physician can carry out functions reserved for a physician or LP by the regulation. A medical school student holds no license, and his/her work is reviewed and must be countersigned by the attending physician; therefore, he or she is not licensed or independent. A medical school student is not a LP.

Protocols

A protocol cannot serve as a substitute for obtaining a physician's or other LP's order prior to initiating each episode of restraint or seclusion use. If a hospital uses protocols that include the use of restraint or seclusion, a specific physician or LP order is still required for each episode of restraint or seclusion use. The philosophy that serves as a foundation for the regulation is that restraint or seclusion use is an exceptional event, not a routine response to a certain patient condition or behavior. Each patient must be assessed, and interventions should be tailored to meet the individual patient's needs. The creation of a protocol can run counter to this philosophy if it sets up the expectation that restraint or seclusion will be used as a routine part of care. The use of restraint or seclusion is a last resort when less restrictive measures have been determined ineffective to ensure the safety of the patient, staff or others, should not be a standard response to a behavior or patient need.

Survey Procedures §482.13(e)(5)

- Review hospital policies and medical staff by-laws to ascertain clinical practice guidelines that describe the responsibilities of medical staff and clinicians who are privileged to order restraint and seclusion.
- Do the hospital's written policies identify what categories of practitioners the State recognizes as an LP or as having the authority to order restraint and seclusion?
- Does the hospital have written policies indicating which practitioners are permitted to order restraint or seclusion in the facility?
- Do the hospital's written policies conform to State law?
- Does the hospital have established policies for who can initiate restraint or seclusion?
- Does the hospital utilize protocols for the use of restraint or seclusion? If so, is the use of protocols consistent with the requirements of the regulation?
- Do the medical records reviewed identify the physician or LP who ordered each use of restraint or seclusion?
- During the medical record review, verify that a physician or LP order was obtained prior to the initiation of restraint or seclusion. When emergency application of restraint or seclusion was necessary, verify that a physician or LP order was obtained immediately (within a few minutes) after application of the restraint or seclusion.