

# STATE OF COLORADO

Bill Ritter, Jr., Governor  
Martha E. Rudolph, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

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Colorado Department  
of Public Health  
and Environment

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Dear Administrator:

In recent months the Health Facilities and Emergency Medical Services Division (HFEMSD) has cited Centers for Medicare and Medicaid Services (CMS) Condition level deficient practice regarding the use of restraint and seclusion in several acute care hospitals. Tasers and pepper spray have been identified as being used on the hospital inpatient units as well as in the Emergency departments. Please see the following CMS Interpretive Guidelines below which addresses this issue.

Federal A0154- Use of Restraint and Seclusion, CFR 482.13(e).

"Patient Rights: Restraint and Seclusion. All patients have the right to be free from physical or mental abuse and corporal punishment. All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time."

The interpretive guidelines in pertinent part states as follows:

"CMS does not consider the use of weapons in the application of restraint or seclusion as a safe, appropriate health care intervention. For the purposes of this regulation, the term 'weapon' includes, but is not limited to, pepper spray, mace, nightsticks, tasers, cattle prods, stun guns, and pistols. Security staff may carry weapons as allowed by hospital policy, and state and federal law. However, the use of weapons by security staff is considered a law enforcement action, not a health intervention. CMS does not support the use of weapons by any hospital staff as a means of subduing a patient in order to place that patient in restraint or seclusion. If a weapon is used by security or law enforcement personnel on a person in a hospital (patient, staff, or visitor) to protect people or hospital property from harm, we would expect the situation to be handled as a criminal activity and the perpetrator be placed in the custody of local law enforcement."

"The use of handcuffs, manacles, shackles, other chain-type restraint devices, or other restrictive devices applied by non-hospital employed or contracted law enforcement officials for custody, detention, and public safety reasons are not governed by this rule. The use of such devices are considered law enforcement restraint devices and would not be considered safe, appropriate health care restraint interventions for use by hospital staff to restrain patients. The law enforcement officers who maintain custody and direct supervision of their prisoner (the hospital's patient) are responsible for the use, application, and monitoring of these restrictive devices in accordance with Federal and State law. However, the hospital is still responsible for an appropriate patient assessment and the provision of safe, appropriate care to its patient (the law enforcement officer's prisoner)."

Please review your policies and procedures to assure that your facility is in compliance with the CMS regulations.

If you have any questions you may contact HFEMSD Acute Care Program staff at 303.692.2800.

Thank you.

Sincerely,

Carol Cambria  
Acute Care Program Manager  
Health Facilities & Emergency Medical Services Division  
Colorado Department of Public Health and Environment