

CHAPTER 42**MECHANICAL RESTRAINTS AND SAFEGUARDING EQUIPMENT****Authority**

N.J.S.A. 30:4-6 et seq., 30:1-12 et seq. and 30:6D-5.

Source and Effective Date

R.2001 d.372, effective November 5, 2001.
See: 33 N.J.R. 1553(a), 33 N.J.R. 3743(a).

Chapter Expiration Date

Chapter 42, Mechanical Restraints and Safeguarding Equipment, expires on November 5, 2006.

Chapter Historical Note

Chapter 42, Emergency Mechanical Equipment, was adopted pursuant to authority of N.J.S.A. 30:1-12, 30:1-15.1; 30:4-1 et seq. and 30:6D-5, R.1986 d.341, effective August 18, 1986, operative January 1, 1987. See: 17 N.J.R. 1832(a), 18 N.J.R. 1706(a).

Chapter 42, Emergency Mechanical Equipment, was repealed and a new Chapter 42, Mechanical Restraints and Safeguarding Equipment, was adopted as new rules by R.1991 d.437, effective August 19, 1991. See: 23 N.J.R. 1653(a), 23 N.J.R. 2538(a).

Pursuant to Executive Order No. 66(1978), Chapter 42, Mechanical Restraints and Safeguarding Equipment, was readopted as R.1996 d.386, effective July 16, 1996. See: 28 N.J.R. 2314(a), 28 N.J.R. 3959(a). Pursuant to Executive Order No. 66(1978), Chapter 42, Mechanical Restraints and Safeguarding Equipment, expired on July 16, 2001.

Chapter 42, Mechanical Restraints and Safeguarding Equipment, was adopted as new rules by R.2001 d.372, effective November 5, 2001. See: Source and Effective Date.

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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.

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 meaning defined herein:

“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 at all times.

“Emergency procedures” means the brief use of procedures to control severely aggressive or destructive behaviors that place the individual or others in imminent danger or physical harm.

“Highly restrictive mechanical restraint” means restraints whose use is considered to be intrusive, and can restrict circulation, breathing or render an individual vulnerable to other persons in the immediate area. Highly restrictive mechanical restraints include, but are not limited to: a camisole, wrist cuff, ankle cuff, papoose boards, restraint chairs and standing boxes.

“Human Rights Committee” 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, regional administrator, or superintendent on issues directly or indirectly affecting the rights of individuals served by the Division.

“Individual Habilitation Plan” (IHP) (see N.J.S.A. 30:6D-10 et seq.) means a written plan of intervention and

action that is developed by the interdisciplinary team. It specifies both the prioritized goals and objectives being pursued by each individual and the steps being taken to achieve them. It may identify a continuum of skill development that outlines progressive steps and the anticipated outcomes of services. The IHP is a single plan that encompasses all relevant components, such as an education plan, a behavior modification plan, a program plan, a rehabilitation plan, a treatment plan and a health care plan. The complexity of the IHP will vary according to the needs, capabilities and desires of the person. In most instances, the IHP shall address all major needs identified. The major needs shall be prioritized. For an individual who makes only specific service requests, the IHP shall be a service plan which addresses only those specific requests.

“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 on behalf of another.

“Interdisciplinary Team” (IDT) means an individually constituted group responsible for the development of a single, integrated IHP. 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 the application of a device which restricts freedom or movement either partially or totally. These devices include, but are not limited to: bed-side rails, mitts, jumpsuits, arm splints, vests, helmets and body harnesses. The use of domed or enclosed cribs shall be prohibited.

“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 mental retardation professional” (QMRP) means a person who has at least one year of experience in working with persons with developmental disabilities and is one of the following:

1. A doctor of medicine or osteopathy;
2. A registered nurse;
3. A professional program staff person who is licensed, certified or registered, as applicable. If the professional program staff do not fall under the jurisdiction of State licensure, certification or registration requirements, he or she shall meet the following qualifications:

i. To be designated as an occupational therapist, an individual shall be eligible for certification as an occupational therapist by the American Occupational Therapy Association or another comparable body;

ii. To be eligible as an occupational therapy assistant, an individual shall be eligible for certification as a certified occupational therapy assistant by the American Occupational Therapy Association or other comparable body;

iii. To be eligible as a physical therapist, the individual shall be eligible for certification as a physical therapist by the American Physical Therapy Association or other comparable body.

iv. To be eligible as a physical therapy assistant, an individual shall be eligible for registration by the American Physical Therapy Association or be a graduate of a two-year college level program approved by the American Physical Therapy Association or other comparable body;

v. To be designated as a psychologist, an individual shall have at least a master's degree in psychology from an accredited school;

vi. To be designated as a social worker, an individual shall:

(1) Hold a graduate degree from a school of social work accredited or approved by the Council on Social Work Education or another comparable body; or

(2) Hold a Bachelor of Social Work degree from a college or university accredited or approved by the Council on Social Work Education or another comparable body;

vii. To be designated as a speech language pathologist or audiologist, an individual shall:

(1) Be eligible for a certificate of clinical competence in speech language pathology or audiology granted by the American Speech Language Hearing Association or other comparable body; or

(2) Meet the educational requirements for certification and be in the process of accumulating the supervised experience required for certification;

viii. To be designated as a professional recreation staff, an individual shall have a bachelor degree in recreation or in a specialty area such as art, dance, music or physical education;

ix. To be designated as a professional dietician or nutritionist, an individual shall be eligible for registration by the American Dietetics Association;