

New Directions

DISABILITY RIGHTS
NORTH CAROLINA

Champions for Equality and Justice



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Rights of People Living in Facilities

Source of rights

Many laws establish the rights of people living in facilities. Some of the laws apply to all persons receiving treatment like the rights guaranteed by the U.S. Constitution (right to treatment) and state law (right to dignity, privacy and humane care); other sources of law such as the rules of a certifying organization, like the Medicaid Conditions of Participation (detailed procedures outlining the use of restraint), only apply to some facilities.

The laws also establish systems of “rights protection” for people living in facilities. These systems differ, depending on where a person resides. Often the N.C. Division of Health Service Regulation (DHRS) investigates client rights violations, but sometimes other agencies, such as the Department of Social Services (DSS), the Long Term Care Ombudsman, or the Local Management Entity (LME), are charged with protecting rights as well.

In this newsletter we have tried to describe the rights of people living in different types of facilities and the rights protection system for that facility.

Basic rights

Under the U.S. Constitution people in facilities have the right to treatment that is adequate to ensure freedom from undue restraint, prevent regression, and facilitate their ability to exercise their liberty interests; and all people have the right to have services provided in the most integrated setting appropriate to their needs. N.C. state law declares that “each adult client of a facility has the same right of any other citizen of North Carolina” unless they have been appointed a guardian. Our state law provides that people in a facility have the right to dignity, privacy, humane care, and freedom from mental and physical abuse, neglect, and exploitation. Except in an emergency, people have the right to be free from seclusion or restraint. The law provides that “[e]ach facility shall assure to each client the right to live as normally as possible while receiving care and treatment,” and that “each client has the right to an individualized written treatment or habilitation plan” designed to maximize the person’s capabilities. Both state and federal law guarantee confidentiality of medical records.

Director’s Message

Disability Rights NC works for justice, upholding the fundamental rights of people with disabilities to live free from harm. Many people with disabilities live independently in the community. But in North Carolina hundreds require more intensive support and live in facilities – sometimes for just a few days, sometimes for weeks, months, or even years. These individuals are dependent on their caretakers not only for their service needs, but for the little things that improve the quality of their lives. Unfortunately,

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What it means...

Abuse is the infliction of physical or mental pain or injury by other than accidental means; unreasonable confinement; or the deprivation of services necessary to the mental and physical health of the client. Temporary discomfort that is part of an approved and documented treatment plan or use of a documented emergency procedure is not considered abuse.

Neglect means the failure to provide care or services necessary to maintain the mental and physical health of the client.

Exploitation means the use of a client or her/his resources including borrowing, taking, or using personal property with or without her/his permission for another person's profit, business, or advantage.

Restrictive Interventions (RI) include manual or mechanical restraints, seclusion, isolation time-out (ITO), or the combination of any of those, and any protective device used to control behavior.

Protective Device means an intervention that provides support for a medically fragile client or enhances the safety of a self-injurious client. Such devices may include geri-chairs or table top chairs to provide support and safety for a client with a physical handicap; seizure helmets or helmets and mittens for self-injurious behaviors; or soft ties used to prevent patients from removing tubes and other medical devices.

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An Overview:

General Rights in "24-hour Facilities"

North Carolina rules and statutes set out the rights of residents in "24-hour facilities." These include private facilities such as group homes, Intermediate Care Facilities for the Mentally Retarded (ICF-MRs), and psychiatric residential treatment facilities that provide mental health, developmental disability or substance abuse services. These facilities are licensed to operate by N.C. Department of Health and Human Services (DHHS) under Chapter 122C of our General Statutes. Facilities operated by the state are also considered "24 hour facilities." These include our state psychiatric hospitals, developmental centers, Alcohol and Drug Abuse Treatment Centers (ADATCs and neuro-medical treatment centers. "24-hour facilities" do not include adult care homes or nursing homes.

Residents have the right to:

- ◆ Dignity, privacy, humane care, and freedom from mental and physical abuse, neglect and exploitation and the right to live as normally as possible while receiving care and treatment.
- ◆ Maintain the same civil rights as other citizens, including the right to vote, marry, divorce, dispose of property, enter into contracts, make purchases, etc., unless the client has been appointed a guardian.
- ◆ Receive medical treatment (though the facility may seek reimbursement for its costs).
- ◆ Receive age-appropriate treatment and have an individual written treatment or habilitation plan developed and implemented by the facility, with input from the client and the client's guardian.
- ◆ Confidentiality, though there are some exceptions set out in the law, such as when a court order requires disclosure, when care providers need to consult, and when facility advocates are working on the client's behalf.
- ◆ Freedom from unnecessary or excessive medication, and medication can never be used as punishment, discipline, or for staff convenience.
- ◆ Refuse treatment unless: 1) the client is in imminent danger of causing physical harm to himself or others; or 2) without the treatment the client is incapable of participating in the treatment plan that would give the client the opportunity to improve; or 3) without treatment there is the significant possibility the client will harm herself or others before improvement occurs.
- ◆ Refuse electroshock therapy, experimental drugs or procedures and surgery (other than emergency surgery).
- ◆ An individualized, written discharge plan with recommendations for further services designed so the client can live in the community, when appropriate.

The following rights of adults in a 24-hour facility cannot be restricted (N.C.G.S. 122C-62)

- ◆ Right to send and receive sealed mail and have access to writing material, postage, and staff assistance if necessary.
- ◆ Right to contact and consult with a lawyer, private physician, or private mental health, developmental disabilities, or substance abuse professional of his or her choice. However, these costs must be borne by the client.
- ◆ Right to contact and consult with a client advocate (if the facility has an advocacy department).

Rights of adults in a 24-hour facility that can be restricted, but only if the facility follows the steps described below! (N.C.G.S. 122C-62)

- ◆ Right to make and receive confidential telephone calls (though the client must either pay for any long-distance calls at the time they make the call or make collect calls).
- ◆ Right to have visitors between 8:00 a.m. and 9:00 p.m. for at least six hours a day, two hours of which must be after 6:00 p.m. However, the law says that visits may not interfere with therapy.
- ◆ Right to communicate with and meet with individuals who consent to be contacted, under appropriate supervision.
- ◆ Right to make visits away from the facility, unless the client is a patient in the forensic service.
- ◆ Right to be outside on a daily basis and have access to facilities and equipment for physical exercise several times a week.
- ◆ Right to keep and use personal clothing and possessions, except when prohibited by law.
- ◆ Right to participate in religious worship.
- ◆ Right to keep and spend a reasonable sum of her or his own money.
- ◆ Right to keep a driver's license (unless otherwise prohibited by law).
- ◆ Right to access individual storage space for the client's private use.

Here are the steps a facility must take to limit or restrict any of the rights above:

- ◆ The qualified professional who is responsible for the client's treatment plan must detail in writing the reason for the restriction, and the restriction must be related to the client's treatment or habilitation needs.
- ◆ The restriction may not exceed 30 days, and must be reviewed by the qualified professional at least every seven (7) days to determine if the restriction can be lifted. The restriction can be

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Director's Message

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just like their peers living in the community, they face barriers. Sometimes, rather than benefitting from the care they receive, they become victims of poor care.

People with any type of disability have the right to receive treatment in a safe and therapeutic environment. Safeguarding the well-being of individuals living in all types of facilities – nursing homes, state psychiatric hospitals, developmental disabilities centers, jails or prisons, and residential schools – is a major focus of Disability Rights North Carolina (DRNC) activity today. This issue of our newsletter addresses the rights of people who live in different types of facilities.

Disability Rights North Carolina is here to help you. If you think your rights have been violated, you can call DRNC, and we may be able to conduct an independent investigation or provide you with meaningful referrals to assist you.



Vicki Smith
Executive Director

Disability Rights North Carolina is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

What it means...

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Restraint can include drugs that temporarily restrict freedom of movement or that are given to control behavior in a way that reduces the safety risk to the resident or others. Restraints can also involve mechanical devices and physical force, such as a “therapeutic hold,” that is applied to restrict freedom of movement. Briefly holding a resident without undue force for the purpose of comforting him or her, or holding a resident’s hand or arm to safely escort him or her from one area to another is not considered a restraint.

Seclusion is when the resident is involuntarily confined to an area or room and physically prevented from leaving. Time out involves restricting an individual in a designated area for a period of time to give him or her an opportunity to regain self-control. Time out is not considered “seclusion.”

Restraint and seclusion should never be used as a form of punishment.

Aversive: Aversive interventions rely on their punishing effect to decrease current or future occurrences of behavior. Illustrations are electric shock, physical assaults, and ammonia mists.



renewed after 30 days.

- ◆ Each evaluation of the restriction must be documented in the client's record.

Rights of persons with mental retardation to notice of discharge (N.C.G.S. 122C-63)

A person with mental retardation residing in a facility has a right to continuity of care, and an operator of a residential home must notify the LME 60 days before closing the facility or discharging the resident. The resident has the right to placement in an alternative facility and to continue to receive services from the LME.

Special rights in state-operated facilities

In addition to the rights of clients in 24-hour facilities listed above, the law directs facilities operated by the state (including state psychiatric hospitals, developmental centers, alcohol and drug abuse treatment centers, neuro-medical treatment centers, Wright School, and Whitaker School) to make special provisions to ensure clients' rights are protected. These include:

- ◆ Informing all clients and their guardians of the client's rights at the time of admission.
- ◆ Providing access to religious worship opportunities with suitable space for worship made available by the facility.
- ◆ Posting information about the services legal assistance programs provide to indigent clients.
- ◆ Providing space for clients and attorneys to consult in private.
- ◆ Providing access to an Internal Client Advocate.
- ◆ Providing clients with a grievance procedure that includes the right to appeal findings to the Human Rights Committee, the Facility Director, the Division Director, and the Secretary of DHHS.
- ◆ Maintaining a Human Rights Committee at each facility, whose members serve as an independent review body to hear and make recommendations about allegations of patient rights' violations brought to the committee's attention by clients, client advocates, parents, guardians, facility employees, and DRNC. The Human Rights Committee can review allegations of abuse, neglect, exploitation, failure to provide services, the use of seclusion, restraint, intrusive or aversive procedures, electroconvulsive therapy, excessive medication or any procedures carried out against the client's wishes. The committee can make findings and present these findings to the facility director. If the committee is not satisfied with the actions of the facility director, the committee can notify the director of the Division and the Secretary of N.C. DHHS.

If you are concerned about a rights violation in a "24-hour facility," you can:

- Contact the Internal Advocate at the facility.
- File a grievance with the facility.
- Contact the N.C. Division of Health Service Regulation. The DHSR Complaint Intake Unit will receive and investigate complaints about a violation of client rights: 1-800-624-3004 (within NC) or 919-855-4500.
- Contact your LME (Local Management Entity). A list of LME offices and the geographic region they cover can be found at: <http://www.ncdhhs.gov/mhddsas/lmedirectory.htm>
- Contact the county Department of Social Services. This website provides contact information for each county's DSS: <http://www.dhhs.state.nc.us/dss/local/>
- Contact the accrediting organization if there is one, such as the Joint Commission. Contact the Joint Commission Office of Quality Monitoring by email at complaint@jointcommission.org or call 1-800-994-6610).

Resources

DHSR: the Division of Health Service Regulation (DHSR): The Division in the N.C. Department of Health and Human Services that inspects, certifies, and licenses hospitals, nursing homes, adult care homes, mental health facilities, home care programs, and other health facilities. DHSR is the agency that receives and responds to complaints. DHSR is also the CMS state agency for North Carolina.

DHSR Complaint Intake Unit will receive and investigate complaints about a violation of client rights: 1-800-624-3004 (within NC) or 919-855-4500.

Facility Advocates: Every State Operated Facility has Internal Advocates that receive and respond to complaints. Upon admission, clients are provided information about how to contact the Advocate.

MH/DD/SAS: the Division of Mental Health/Development Disabilities/Substance Abuse Services: The Division in the N.C. Department of Health and Human Services (DHHS) that provides oversight for the mental health, substance abuse, and developmental disability services statewide.”

MH/DD/SAS Advocacy and Customer Service Section’s mission includes protecting consumer rights in state facilities and in the community. Call 919-715-3197 or the DHHS Care-Line 1-800-662-7030.

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Kids’ Rights

Kids and teenagers have the same basic rights as everyone else, but people under the age of eighteen will have a parent or guardian who has the authority to make some decisions regarding how certain rights will be exercised.

Kids in a 24-hour facility have rights that cannot be taken away or restricted (N.C.G.S. 122C-62). These are:

- ◆ Right to communicate and consult with a parent, guardian or the agency or individual who has legal custody of him or her.
- ◆ Right to contact and consult with an attorney, physician, mental health provider or other professional of choice. The cost of these services is the responsibility of the individual or their parent or guardian.
- ◆ Right to contact and consult with a client advocate if there is a client advocate.

Rights of children and teens that may be restricted

Some rights of children and teens can be restricted. In order for a right to be restricted the facility must follow the same rules as to restrict the right of an adult. The restriction must be documented in the person’s record; only a qualified professional may limit or restrict someone’s rights; the qualified professional is required to document a detailed reason for the restriction; the restriction must be reasonable and must be related to the person’s treatment or habilitation needs; and the restriction must be reviewed every 7 days. The parent or guardian must be notified of each instance of an initial restriction or a renewal of a restriction and the reason for it. Kids have the following rights, but these rights can be restricted.

- ◆ Right to make and receive telephone calls. All long distance calls must be paid for by the client or by calling collect.
- ◆ Right to send and receive mail and to have access to writing materials and postage, and the right to have staff help when necessary.
- ◆ Right to have visitors with appropriate supervision between the hours of 8:00 a.m. and 9:00 p.m. daily. Visits should not interfere with school or therapy.
- ◆ Right to receive special education and vocational training in accordance with federal and state law.
- ◆ Right to be outdoors daily and participate in play, recreation, and physical exercise on a regular basis.
- ◆ Right to keep and use personal clothing and possessions under appropriate supervision.
- ◆ Right to participate in religious worship.
- ◆ Right to have individual storage space for the safekeeping of belongings.
- ◆ Right to have access to and spend a reasonable amount of his or her own money.

Just like adults, kids have the right to be free from seclusion or restraint except in an emergency.

- ◆ Restraint may include use of a drug that temporarily restricts freedom of movement given to control behavior. Restraints can also involve mechanical devices and physical force that is applied to restrict freedom of movement. Another term that has been used to describe restraint is “therapeutic hold.” Briefly holding a resident without undue force for the purpose of comforting him or her, or holding a resident’s hand or arm to safely escort him or her from one area to another is not considered a restraint.
- ◆ Seclusion is when the child is involuntarily confined to an area or room and physically prevented from leaving. Time out involves restricting an individual in a designated area for a period of time to give him or her an opportunity to regain self-control. Children and youth in time out must be monitored by staff and may not be physically prevented from leaving the area. Time out is not seclusion. (Unfortunately the terms “time out” or “quiet time” are sometimes improperly used to describe a circumstance that by law would be categorized as seclusion.) ***Restraint and seclusion can only be used in an emergency and should never be used as a form of punishment!***

Kids and teens have a voice. Being your own advocate means speaking up if you believe your rights have been violated. It’s important to look for help.

Tell someone you trust such as parent, guardian, case manager, teacher, doctor, counselor, or advocate.

You can file a grievance by asking for the internal grievance procedure within a facility.

Agencies that may help you:

- The DHSR complaint intake unit
- Local DSS
- Advocacy and Customer Service section of MH/DD/SAS
- Local Management Entity (LME),
- Accrediting body such as the Joint Commission
- Local law enforcement agency

Resources

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LME (Local Management Entity):

The local agency responsible for managing, coordinating, facilitating and monitoring the provision of mental health, developmental disabilities and substance abuse services in a particular geographic area. LME responsibilities include offering consumers 24/7/365 access to services, developing and overseeing providers of services, and handling consumer complaints and grievances. A list of LME offices and the geographic region they cover can be found here: <http://www.ncdhhs.gov/mhddsas/lmedirectory.htm>

The county Department of Social Services (DSS) may investigate and protect the rights of a person in a facility. The DSS Adult Care Homes Specialists monitor the adult care homes in the community, and Child and Adult Protective Service staff may investigate a report of abuse. This website provides contact information for each county’s DSS: <http://www.dhhs.state.nc.us/dss/local/>

The Long Term Care Ombudsman

is part of the N.C. Division of Aging and Adult Services. Ombudsmen advocate for residents in nursing homes and adult care homes (rest homes/assisted living) throughout North Carolina. Ombudsmen receive and investigate complaints made by or on behalf of long term care residents and work for their

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resolution. The Long Term Care Ombudsman Program is an advocacy program, not a regulatory agency. Phone: 919-733-8395.

The **Joint Commission** is an accrediting agency. If you are in a facility accredited by the Joint Commission, you can complain to the Joint Commission Office of Quality Monitoring at 1-800-994-6610 or by email to complaint@jointcommission.org.

CARF: The Commission on Accreditation of Rehabilitation Facilities is also an accrediting agency. CARF can be reached at 1-888-281-6531.

Adult Care Homes

“Adult Care Homes” provide care and assistance to people in carrying out activities of daily living, and supervision to people with cognitive impairments. Smaller adult care homes that provide care to two to six unrelated residents are commonly called family care homes.

Adult Care/Family Care Homes are licensed by N.C. DHSR (Adult Care Licensure Section) and must comply with the Rules listed in 10A NCAC 13F (Adult Care Homes) and 10A NCAC 13G (family care homes). These homes are monitored by Adult Home Specialists within each county Department of Social Services, while DHSR receives and responds to complaints. Facilities that violate licensure rules can be subject to sanctions, including fines.

Adult Care Homes must honor the Adult Care Home Resident’s Bill of Rights, which are designed to promote and protect the well-being of residents. The Long Term Care Ombudsman Program advocates on behalf of adult care home residents and provides a variety of services and assistance to adult care home residents, families, and providers. Also, each county with an adult care home has an Adult Care Home Community Advisory committee which tours facilities on a regular basis.

To file a complaint about an Adult Care Home you may contact:

- The Department of Social Services (DSS) in the county where the home is located (the County DSS Office information should be posted in the home). Visit <http://www.dhhs.state.nc.us/dss/local> for contact information.
- The North Carolina Division of Health Service Regulation (DHSR) will investigate complaints about violations of client rights: Call 1-800-624-3004 (within North Carolina) or 919-855-4500.
- N.C. Long Term Care Ombudsman Program. To find out how to contact the Regional Ombudsman in your area, call 919-733-8395 or 1-800-662-7030.

All human beings are born free and equal in dignity and rights.

Universal Declaration
of Human Rights

Rights of Residents in Nursing Homes

Nursing Homes are facilities that provide long term care of chronic conditions or short term convalescent or rehabilitative care of remedial ailments for which medical and nursing care are indicated.

All nursing homes must be licensed in accordance with North Carolina state law. Facilities that violate licensure rules or the certification standards can be subject to sanctions, including fines. In addition to the licensure and certification requirements, nursing homes must also honor the Nursing Home Patient's Bill of Rights. These rights are designed to promote and protect the well-being of nursing home residents. While the DHSR is responsible for ensuring regulatory compliance within nursing homes, the Long Term Care Ombudsman Program advocates on behalf of nursing home residents and provides a variety of services and assistance to nursing home residents, families, and providers.

Rights of Inmates With Disabilities

The Americans with Disabilities Act (ADA) and the Rehabilitation Act of 1973 guarantee that persons with disabilities who are incarcerated should in most cases have equal access to facilities (such as bathrooms and showers), programs, and services. The ADA is violated when an inmate with disabilities is qualified to participate in a program or service, or access a facility, but is excluded from participation because of disability.

The U.S. Constitution prohibits deliberate indifference to "serious" medical needs. One court described mental illness as serious when it caused significant disruption to the inmate's everyday life and prevented his functioning in the general population without disturbing or endangering others or himself. However, the law is violated only when a jail or prison official "recklessly disregards a substantial risk of harm to the prisoner."

North Carolina Jail Rules

A 2007 N.C. law requires DHHS, LMEs, public health departments and the county sheriff to work together within available resources to provide medical assessments and medication, if appropriate, for inmates who are suicidal, hallucinating, or delusional. The law also requires the LMEs to examine ways to provide treatment to persons who are psychotic, severely depressed, suicidal, or who have substance abuse disorders. Each jail must have a written plan approved by the health director after consultation with the LME that outlines procedures and policies for providing medical care. The plan must address how mental health emergencies will be handled.

For help with a complaint, nursing home residents can contact:

- N.C. DHSR Complaint Intake Unit will receive and investigate complaints about a violation of client rights: 1-800-624-3004 (within NC) or 919-855-4500
- N.C. Long Term Care Ombudsman Program. To find out how to contact the Regional Ombudsman in your area, call 919-733-8395 or 1-800-662-7030.
- County DSS Adult Protective Services. Visit <http://www.dhhs.state.nc.us/dss/> local for contact information.

Diversion Programs

Some N.C. Jails have **Jail Diversion Programs** designed to help people with mental illness move from the criminal justice system to appropriate treatment in the mental health system. As of February 2009 the following counties had Jail Diversion Programs: Ashe, Watauga, Wilkes, Avery, Buncombe, Lincoln, Gaston, Cleveland, Mecklenburg, Stanly, Cabarrus, Rowan, Forsyth, Rockingham, Randolph, Durham,

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New Hanover, and Guilford. For more information contact Bob Kurtz with N.C. DHHS at 919-715-2771.

For help with a complaint, inmates may contact:

- North Carolina Prisoner Legal Services, Inc.
Post Office Box 25397
Raleigh, North Carolina 27611
919-856-2200
- The U.S. Department of justice may investigate a complaint of discrimination on the basis of disability. To complain, send a detailed letter to:

U.S. Department of Justice
Civil Rights Division
950 Pennsylvania Avenue, NW
Washington, DC 20530
202-307-2227
1-800-514-0301
TTY: 1-800-514-0383
Fax: 202-307-1198
- N.C. jail regulations are enforced by the Jails and Detention Section of N.C. DHSR (919-855-3856).
- Federal inmates can contact the Federal Bureau of Prisons at 202-307-3198.

DRNC SUMMARY:

North Carolina's Bill of Rights for Residents of Nursing Homes and Adult Care Homes

Every resident shall have the following rights:

1. To be treated with consideration, respect, and full recognition of personal dignity and individuality, and to enjoy privacy in his or her room.
2. To receive care, treatment, and services that are adequate, appropriate, and in compliance with relevant federal and state statutes and rules.
3. To receive at the time of admission a written statement of services provided by the facility.
4. To have on file physician's orders with proposed schedule of medical treatment, and to have medical records kept confidential.
6. To be free from mental and physical abuse. Except in emergencies, to be free from chemical and physical restraint unless authorized for a specified period of time by a physician according to clear and indicated medical need.
7. To receive from the administration or staff of the facility a reasonable response to all requests, and to be able to present grievances and recommend changes in policies and services without fear of reprisal, restraint, interference, coercion, or discrimination.
8. To associate and communicate privately and without restriction with persons and groups of the patient's choice at any reasonable hour.
9. To send and receive mail promptly and unopened, and to have access to writing instruments, stationery, and postage.
10. To have access to a telephone where the patient may speak privately.
11. To manage his/her own financial affairs unless other legal arrangements have been implemented.
12. To not be transferred or discharged from a facility except for medical, financial, their own or another patient's welfare, nonpayment for the stay, or when mandated under state or federal law. Any such transfer shall require advance notice, along with a notice of appeal rights.

Protection from Harm

North Carolina law makes it clear that facilities must protect residents from harm. In particular, rules of state agencies regulate the use of “restrictive interventions” (RI), such as manual or mechanical restraints, seclusion, isolation time-out (ITO), used separately or in combination, and any protective device used to control behavior.

Facilities can choose not to use any restrictive procedures. However, when facilities have policies that permit the use of such practices, they must comply with strict laws, rules, and regulations.

Some procedures are prohibited under North Carolina law. These include:

- ◆ Corporal punishment
- ◆ The use of painful bodily contact or application of any noxious substances such as noise, bad smells, or splashing with water
- ◆ The administration of substances designed to induce painful bodily reactions, exclusive of Antabuse
- ◆ Electric shock (excluding the medically administered use of electroconvulsive therapy specifically consented to)
- ◆ Insulin shock
- ◆ Unpleasant tasting foods
- ◆ Any potentially painful procedure or stimulus designed to reduce the frequency or intensity of a behavior, except prescribed injections

Facilities that use RIs must inform clients of the practices used at the time of admission.

State law strictly limits the use of RIs to emergency situations in which a client is in imminent danger of abuse or injury to self or others, or when property damage is occurring that poses imminent risk of danger of injury or harm to self or others. An RI can only be used if other, less restrictive alternatives have been tried and were not successful. The law permits planned interventions in certain circumstances.

State law further requires facilities that use restrictive interventions to:

- ◆ Review the client’s health history and identify any pre-existing medical conditions or disabilities or limitations that would place the client at greater risk during the use of restrictive interventions, such as obesity, asthma or post-traumatic stress disorder.
- ◆ Continuously assess and monitor the physical and psychological well-being of the client, and the safe use of restraint, throughout the duration of the RI by staff who are physically present and trained in the use of emergency safety interventions as well as cardiopulmonary resuscitation. The facility must also document these observations in the client’s record. The client must be given opportunities for toileting, bathing and regular meals during the RI.
- ◆ Follow laws regarding the criteria for rooms used for seclusion or ITO.
- ◆ Follow laws regarding the length of time the RI may be employed, based upon the age of the client.
- ◆ Obtain a medical order for the RI with a specific length of time permitting the RI; standing orders or PRN “as needed” orders are prohibited for restraint, seclusion, or ITO.
- ◆ Release the client from the RI immediately if it appears the client’s health or safety is at risk, or as soon as the client gains behavioral control.
- ◆ Meet with the client following the RI to discuss the events leading to the RI in order to determine what steps might be taken in the future to prevent another RI.
- ◆ Notify the client’s parent or guardian immediately, and the treatment team and a member of management as quickly as possible but in any event no later than 24 hours following the RI.

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*Congress
acknowledged that
society's accumulated
myths and fears
about disability
and disease are as
handicapping as
are the physical
limitations that
flow from actual
impairment.*

William J. Brennan, Jr.,
Associate Justice of the U.S.
Supreme Court from 1956–90

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- ◆ Conduct reviews on the use of all RIs and conduct an investigation if it appears that there are any unusual or unwarranted patterns of RIs.

Please note: These requirements apply to all facilities licensed under N.C.G.S. 122C; certain facilities, such as Psychiatric Residential Treatment Facilities (PRTFs) or psychiatric hospitals have stricter rules and regulations.

Protective devices may only be used if the necessity of the device has been assessed and it is applied by a facility employee with specific training and competence in the use of protective devices. Less restrictive alternatives must be reviewed before using a protective device. The devices must be regularly cleaned. When the device limits the client's movement, the client must be observed at least once an hour, and if the client is restrained or subject to injury by another client, an employee must be with the client continuously.

www.disabilityrightsnc.org

Advocacy System

North Carolina's Protection and

is available in alternate formats.

Upon request, information

919-856-2244 fax

888-268-5535 TTY

877-235-4210

919-856-2195

Raleigh, North Carolina 27608

Suite 550

2626 Glenwood Avenue



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