



Use of Restrictive Practices in Non-Authorised Healthcare Settings Policy

1. Purpose

The WA health system is committed to minimising, as much as possible, the use of restrictive practices during a period of health care whilst maintaining staff member and patient safety.

This policy outlines the minimum requirements for the safe and lawful use of restrictive practices on patients in a non-authorised healthcare setting. Restrictive practices, inclusive of detention and/or restraint, must only be used as a last resort after exhausting all other strategies and when there is an imminent or actual health or safety risk. Restrictive practices must be applied in a respectful manner, with the intention of preserving patient rights, dignity and autonomy, in the least restrictive way possible given an assessment of the risk factors of each incident.

This policy aims to embed the safe and lawful use of restrictive practices in alignment with the principles of consent, decision making capacity and necessity. It also promotes the use of trauma-informed care and the consideration of the patient's rights, freedoms and choices whilst balancing healthcare needs and safety in line with the Australian Charter of Healthcare Rights. The use of restrictive practices must also be considered alongside the clinician's duty of care obligations and responsibilities.

The policy provides direction for Health Service Provider (HSP) staff members who work in non-authorised healthcare settings. Restrictive practices may be used in the treatment and care of people who present with disturbed behaviour, cognitive impairment and/or psychological distress due to non-medical, medical, mental illness, alcohol and other drug related issues.

This policy is a mandatory requirement for HSPs under the *Clinical Governance, Safety and Quality Policy Framework* pursuant to section 26(2)(d) of the *Health Services Act 2016*.

This policy aligns with the National Safety and Quality Health Service Standards 1, 2, 5 and 8 (2nd edition) requirements that relate to minimising harm. The purpose of these standards is to provide high quality healthcare whilst ensuring the least amount of harm to the public.

The policy is not applicable to:

- Patients under a mental health care order receiving treatment within an authorised hospital.

- A patient who is under arrest or a prisoner of the WA Police Force or Department of Justice Corrective Services, where statutory requirements exist and obligations to public safety and maintaining custody override medical need.
- Individuals who are not patients of the health service, that are not receiving treatment, for example visitors, relatives, guardians, friends, and other members of the public.

This policy is to be read in conjunction with:

- [MP 0181/24 Safety Planning for Mental Health Consumers Policy](#)
- [MP 0175/22 Consent to Treatment Policy](#)
- [MP 0171/22 Recognising and Responding to Acute Deterioration Policy](#)
- [MP 0122/19 Clinical Incident Management Policy](#)
- [MP 0159/21 Workplace Aggression and Violence Policy](#)
- [MP 0174/21 Refusal or Withdrawal of Care for a Patient Exhibiting Aggressive or Violent Behaviour Policy](#).

2. Applicability

This policy is applicable to all HSPs except for Health Support Services, and PathWest Laboratory Medicine WA.

The requirements contained within this policy are applicable to the services purchased from contracted health entities where it is explicitly stated in the contract between the contracted health entity and the State of Western Australia or HSP. The State of Western Australia or HSP contract manager is responsible for ensuring that any obligation to comply with this policy by the contracted health entity is accurately reflected in the relevant contract and managed accordingly.

3. Policy Requirements

3.1 Prevention and minimisation strategies

- 3.1.1 HSPs must implement evidence-based strategies for the prevention, early recognition, and response to challenging behaviour. These must be relevant to the healthcare setting and the patients accessing these services. For example, strategies for children and adolescents will differ from those relevant to older patients.
- 3.1.2 Prevention strategies can include trauma-informed models of care, service reconfiguration, collaboration with patients and their carer/family and substitute decision makers, safety planning, risk assessments, cultural awareness, competency training, and positive behaviour support.
- 3.1.3 Trauma-informed care may also include ongoing positive communication and person-centric care. Trauma-informed approaches must be incorporated from the outset in the provision of care and in accordance with [MP 0181/24 Safety Planning for Mental Health Consumers Policy](#).
- 3.1.4 HSPs must regularly review service configuration and provision to determine if they increase the risk of using restrictive practices and, if so, implement strategies to maximise safety and reduce the incidence of restrictive practices.

3.1.5 Restrictive practices must never be used as an alternative to adequate surveillance, staffing levels, equipment shortfalls, or lack of appropriate facilities.

3.2 Prior to use of restrictive practices

3.2.1 HSPs must ensure that all of the following criteria are met prior to engaging in the use of restrictive practices:

- The patient is at significant imminent risk of causing serious harm to self or others.
- The patient lacks the capacity to make informed decisions about their health care needs at that time, or the patient is of uncertain capacity and is experiencing an acute severe behavioural disturbance and requires an urgent assessment of their capacity and/or treatment of the cause of the behavioural disturbance.
- All reasonable lower risk and less restrictive options have been attempted or considered to de-escalate or manage the behaviour of the patient and/or the imminent or actual risk they pose.

3.2.2 Where practicable, the patient's decision-making capacity must be determined to obtain consent to provide any treatment. If capacity is unable to be assessed or is assessed as impaired and there is an immediate risk to their health and safety, a restrictive practice (i.e., restraint) can be used to prevent the patient from leaving the healthcare facility. The use of a restrictive practice must cease as soon as the risk is addressed, with appropriate actions undertaken to assess capacity.

3.2.3 If a patient poses no imminent risk of serious harm to self or others, has decision-making capacity and refuses a medical assessment and/or treatment, it is unlawful for a health professional to proceed with treatment, authorise any restrictive practices to provide that treatment, or prevent the patient from leaving the healthcare facility.

3.2.4 The needs of specific groups such as ethno-culturally diverse groups, Aboriginal people, children and youth and older people and patients with known physical and mental health risk factors, must all be considered as part of the decision-making process prior to using restrictive practices.

3.3 Initiation and use of restrictive practices

3.3.1 The initiation of restrictive practices is often required at short notice to address an imminent or actual risk and a potential emergency situation. The use of restrictive practices, particularly physical and/or mechanical restraints, must be proportionate to the imminent risk of harm, applied safely using the minimum amount of force considered necessary and reasonable, for the minimum duration necessary.

3.3.2 In accordance with the local HSP policy and consistent with this policy, the decision to use a restrictive practice must be initiated by a health professional involved in managing the care of the patient.

3.3.3 Supplementary assistance from trained security officers may be requested to apply the restrictive practice. The health professional responsible for managing the patient's care must provide a clear, lawful direction to security officers regarding the

use of the restrictive practice (i.e., restraint) required. Security officers must use only the minimum amount of force proportionate to the imminent risk of harm and considered necessary and reasonable for the minimum duration necessary.

- 3.3.4 Any interference with a patient's rights, privacy or dignity must be the minimum necessary to protect the safety of all, particularly when the restraint occurs in public areas and shared treatment areas or facilities.
- 3.3.5 The use of a restrictive practice may be required if a patient is presenting an imminent risk to themselves or others, in order to undertake a clinical assessment and assess capacity. Any restrictive practice used to undertake this clinical assessment must be done using only the minimum amount of force proportionate to the imminent risk of harm and considered necessary and reasonable for the minimum duration necessary.
- 3.3.6 Once a restrictive practice is applied, the clinical team must ensure ongoing patient assessments are conducted, as required, in accordance with their care requirements and according to the local HSP policy and guidelines. Any deterioration in a patient's physical condition, mental state or cognitive state must be assessed and managed promptly in accordance with [MP 0171/22 Recognising and Responding to Acute Deterioration Policy](#).
- 3.3.7 The use of restrictive practices must be reassessed immediately if there is an injury or deterioration of the patient's health condition(s), in accordance with 3.3.6 above. HSPs must undertake a review of the patient's deterioration to ensure that any continuation in the use of restrictive practices considers the level of harm, injury or ongoing risk to the patient or others.
- 3.3.8 Where there is an ongoing need for the use of a restrictive practice, a care management plan must be developed by the clinical team documenting the requirement for the practice, the patient's decision-making capacity, behavioural management and de-escalation strategies utilised. The plan can be amended at any time following a review of the patient's care by the clinical team.
- 3.3.9 When the use of restrictive practice has resulted in patient harm or a clinical incident, without breaching patient confidentiality, there must be an appropriate level of open disclosure with the patient's family member, guardian, enduring guardian or substitute decision-maker as soon as practicable, in accordance with [MP 0122/19 Clinical Incident Management Policy](#).

3.4 Cessation of restrictive practices

- 3.4.1 The use of a restrictive practice must cease once the assessment is complete (refer to 3.3.5), unless there is an ongoing safety risk to the patient or others, or the assessment indicates that emergency lifesaving treatment is required.
- 3.4.2 The use of any ongoing restrictive practice as required under 3.3.8 must cease when the risk to the patient or others has returned to an acceptable level.
- 3.4.3 A decision to cease using a restrictive practice must be based on clinical judgement, informed by the ongoing assessment of the patient's mental and physical state, their ability to control their behaviour and the subsequent level of imminent risk/harm to themselves and others.

- 3.4.4 Where practicable and appropriate, staff debriefing sessions are to be undertaken as soon as possible with impacted staff members for the purposes of identifying required referrals to employee assistance programs and, if required, support shared learning, identification of triggers and strategies to improve risk management processes and training and development requirements.
- 3.4.5 Health professionals must consider debriefing with legal guardians/enduring guardians and the patient in a timely manner to determine the appropriateness of the intervention and its application, and to identify areas for improvement. HSPs must ensure where the decision is taken not to debrief with a patient and/or guardian/enduring guardian, the reasons are documented in the patient's medical record.

3.5 Documentation and reporting

- 3.5.1 Each use of a restrictive practice must be documented in the patient's medical record and/or in any relevant safety and quality management system, including a code black report and restraint monitoring tool. This must include the following information:
- Details of the situation, including the patient's mental state, deterioration, associated behaviours and the level and type(s) of risk.
 - Unsuccessful lower risk de-escalation strategies utilised and reasons for failure, if applicable.
 - The type of restrictive practice used and clinical rationale.
 - Assessment of mental capacity and the outcome of that assessment.
 - Confirmation that consent to treatment was sought and the outcome.
 - The use of supplementary support from security officers, if applicable.
 - Any physical injuries resulting from the use of a restrictive practice.
 - Notification of family member, guardian, enduring guardian or substitute decision-maker, if appropriate.
 - Any medications offered or administered.
 - Any multidisciplinary reviews conducted.

3.6 Training and education

- 3.6.1 HSPs must provide appropriate mandatory training that aligns with the requirements of this policy. This includes the circumstances in which restrictive practices would be deemed lawful or unlawful, appropriate levels of de-escalation, intervention techniques, and trauma-informed approaches to help manage patients experiencing behavioural disturbances.
- 3.6.2 HSPs must ensure that staff members (inclusive of security staff) who initiate restrictive practices and those who are responsible for the ongoing management of patients under restrictive practices complete this mandatory training in accordance with their local restrictive practices policy and training needs.

3.7 Governance and review

- 3.7.1 HSPs must develop local policies and procedures in alignment with this policy that provide clear information and direction regarding the lawful and unlawful use of restrictive practices.

- 3.7.2 Where the use of a restrictive practice has resulted in serious injury or trauma to a staff member or patient, the HSP must undertake a thorough investigation. This includes reviewing procedures, actions taken to address the incident, relevant incident documentation, and engagement with the staff member and patient(s) involved.
- 3.7.3 HSPs must have appropriate systems and processes in place to regularly monitor, review and improve performance. This includes conducting relevant quality improvement activities, protocols and procedures, as appropriate. Systems and processes must include a mechanism to prevent or minimise restrictive practice usage, either through appropriate training and/or work health and safety requirements.
- 3.7.4 HSPs must also ensure that regular reporting and assessment to improve safety and quality, as well as content and access to education and training is undertaken in accordance with local policy. This must occur through respective HSP Workforce Aggression and Violence Committees, Work Health and Safety Committees, or an equivalent patient safety and/or workforce governance committee.

3.8 The lawful use of restrictive practices

- 3.8.1 In WA, the circumstances under which a patient may be restrained include:
- For urgent assessment and/or treatment of patients (excluding psychiatric treatment of mental illness) who are unable to make reasonable decisions for themselves and are at imminent risk of causing serious harm to self or others.
 - In situations, where patient has been assessed to not have capacity, to prevent immediate risk or harm to self or others (Doctrine of Necessity).
 - In situations of sudden or extraordinary emergency where the actions taken are reasonable (Criminal Code).
 - Where a guardian or enduring guardian has been appointed with the authority to consent to the use of restrictive practices on behalf of the patient.
 - When restrained or detained in accordance with a provision of the *Mental Health Act 2014*.

3.9 The unlawful use of restrictive practices

- 3.9.1 The use of restrictive practices in an unauthorised setting is considered unlawful if:
- A voluntary patient who has demonstrated capacity and has refused medical treatment is prevented from leaving the hospital or healthcare facility.
 - Any force is used to prevent a voluntary patient with demonstrated capacity from leaving a hospital or healthcare facility. This may constitute an unlawful assault upon the patient.
- 3.9.2 Staff members have no lawful right to prevent a voluntary patient from leaving a hospital or healthcare facility. There must be a legal power to detain a person. The use of force, without legal authority or excuse, may expose staff members and the hospital to:
- Civil liability to pay damages to the person for the tort of trespass – this includes assault, battery and false imprisonment.
 - Criminal liability for an offence such as assault or deprivation of liberty.

4. Compliance Monitoring

The Mental Health Unit (MHU), on behalf of the System Manager will require that HSPs provide an annual report by 31 July each year detailing the following information for the previous financial year:

- Rates of restrictive practices applied in non-authorized healthcare settings, including the type of restraint used.
- Rates of clinical incidents resulting from the use of a restrictive practice. This includes reporting in accordance with [MP 0122/19 Clinical Incident Management Policy](#).
- Governance and decision matrices used to assess a patient's decision-making capacity each time a restrictive practice is utilised.

The MHU may require further information regarding specific incidents involving the use of restrictive practices. Periodic audits of policy compliance on behalf of the System Manager will also be conducted.

5. Related Documents

The following documents are mandatory pursuant to this policy:

- N/A

6. Supporting Information

The following information is not mandatory but informs and/or supports the implementation of this policy:

- [Office of the Chief Psychiatrist Guideline: Use of Detention and Restraint in Non Authorised Healthcare Settings](#)
- [Office of the Chief Psychiatrist and Department of Health: Restrictive Practices Factsheet](#)
- [Australasian College for Emergency Medicine - Statement on the Use of Restrictive Practices in Emergency Departments](#)
- [Australian Commission on Safety and Quality in Health Care: Minimising Restrictive Practices](#)

7. Definitions

The following definition(s) are relevant to this policy.

Term	Definition
Authorised Hospital	A public hospital or part of a public hospital that has been authorised under the MHA 2014 to: receive persons who are mentally ill for examination by a psychiatrist, or for admission of involuntary patients who are mentally ill.
Behavioural disturbance	Behaviour or psychological distress that puts the patient or others at immediate risk of serious harm and may include threatening or aggressive behaviour, extreme distress, and serious self-harm which could cause major injury or death.

Carer	Describes a person who provides ongoing unpaid support to a family member or friend who needs help because of disability, medical condition (terminal or chronic), mental illness or ageing.
Consent (to medical treatment)	In the context of health care, consent is a patient's agreement that a health professional can proceed to perform a specific proposed treatment based on having been provided with the required information about the proposed treatment.
Debriefing	Formal or informal discussions after an incident intended to exchange information, provide support and plan actions. Patients, managers and workers can participate.
De-escalation	The use of verbal and non-verbal interventions aimed at defusing anger and averting aggression.
Detention	The act of keeping back, restraining or withholding, either accidentally or by design, a person.
Doctrine of necessity	A common law doctrine that allows an individual to perform certain actions that would normally be deemed as contraventions of the law. The doctrine is only applicable in cases of imminent risk of serious harm or death to self or others.
Duty of care	A legal and professional obligation to take reasonable and responsible steps to not cause foreseeable harm to another person and to safeguard others.
Guardian/enduring guardian	A person/s appointed under the <i>Guardianship and Administration Act 1990</i> to make personal, lifestyle and treatment-related decisions for an adult who does not have the capacity to make their own decisions.
Health professional	A person who is a health practitioner registered under the <i>Health Practitioner Regulation National Law (WA) Act 2010</i> or is in a class of persons prescribed as a health professional under the <i>Health Services Act 2016</i> .
Health Service Provider	A Health Service Provider established by an order under section 32 (1)(b) of the <i>Health Services Act 2016</i> and includes North Metropolitan Health Service, South Metropolitan Health Service, Child and Adolescent Health Service, WA Country Health Service, East Metropolitan Health Service, PathWest Medicine WA, Quadriplegic Centre and Health Support Services.
Non-authorized healthcare setting	Any health setting that is not authorised under s.541 of the <i>Mental Health Act 2014</i> . This includes emergency departments, general hospital wards, examination rooms, outpatient clinics, hospital grounds and GP surgeries.
Mechanical restraint	The application of devices (including belts, harnesses, manacles, sheets and straps) to a person's body to restrict their movement.

Physical restraint	The application by staff members of 'hands-on' immobilisation or the physical restriction of a person to prevent the person from harming themselves or endangering others, to ensure the provision of essential medical treatment.
Restraint	The restriction of an individual's freedom of movement by physical or mechanical means.
Restrictive practices	Any practice or intervention that has the effect of restricting the rights and freedoms or movement of individuals or groups. Restrictive practices can be defined as either detention, mechanical restraint, physical restraint and/or environmental restraint.
Substitute decision maker	A designated person selected in advance that is authorised to make health care decisions on behalf of a patient who is unable to make important decisions about their own personal care. The legal effect of a decision made by a substitute decision maker is the same as if the person had made the decision themselves.
Tort	A wrongful act, whether intentional or accidental, that injures or harms another person, resulting in a legal liability for the person who caused the harm.
Trauma-informed care	A practice that seeks to understand and respond to the impact of trauma on the patient and their physical, physiological, and interpersonal responses within health care. The key principles of trauma informed care include safety, trustworthiness, choice, collaboration, and empowerment.
WA health system	The WA health system is comprised of: (i) the Department; (ii) Health Service Providers (North Metropolitan Health Service, South Metropolitan Health Service, Child and Adolescent Health Service, WA Country Health Service, East Metropolitan Health Service, PathWest Laboratory Medicine WA, Quadriplegic Centre and Health Support Services); and (iii) contracted health entities, to the extent they provide health services to the State.

8. Policy Contact

Enquiries relating to this policy may be directed to:

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9. Document Control

Version	Published date	Review date	Amendment(s)
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Note: Mandatory policies that exceed the scheduled review date will continue to remain in effect.

10. Approval

Approval by	Sash Tomson, A/Assistant Director General, Strategy and Governance Division, Department of Health
Approval date	9 June 2024

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