

# STATE OF NEW YORK

6077

2025-2026 Regular Sessions

## IN SENATE

March 5, 2025

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health

AN ACT to amend the mental hygiene law, in relation to restraint of individuals in facilities under the jurisdiction of the office of mental health

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision (a) of section 33.04 of the mental hygiene law,  
2 as added by chapter 779 of the laws of 1977 and such section as renum-  
3 bered by chapter 334 of the laws of 1980, is amended to read as follows:

4 (a) As used in this section, "restraint" means the use of an apparatus  
5 on a patient which prevents the free movement of both arms or both legs  
6 or which totally immobilizes such patient, and which the patient is  
7 unable to remove easily, provided, however, that restraint in facilities  
8 licensed or operated by the office of mental health shall be authorized  
9 and implemented in accordance with section 33.10 of this article, which  
10 shall fully supersede the provisions of this section with respect to  
11 such facilities.

12 § 2. The mental hygiene law is amended by adding a new section 33.10  
13 to read as follows:

14 § 33.10 Restraint and seclusion in facilities licensed or operated by  
15 the office of mental health.

16 (a) Applicability. This section shall apply to hospitals and residen-  
17 tial treatment facilities for children and youth, as both terms are  
18 defined in section 1.03 of this chapter, and secure treatment facilities  
19 as defined in section 10.03 of this chapter, that are certified or oper-  
20 ated by the office of mental health. Unless specifically authorized in  
21 regulations establishing any other program category governed by the  
22 office of mental health, the use of restraint or seclusion is not  
23 permitted.

24 (b) Definitions. For purposes of this section:

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 (1) "Drug used as a restraint" means the use of a drug or medication  
2 as a restriction to manage a patient's behavior or restrict such  
3 patient's freedom of movement, that is not a standard treatment or  
4 dosage for the patient's medical or psychiatric condition, provided,  
5 however, that the use of medication to completely immobilize a patient  
6 is prohibited.

7 (2) "Mechanical restraint" means an apparatus which restricts an indi-  
8 vidual's movement of the head, limbs or body, and which the individual  
9 is unable to remove.

10 (3) "Manual restraint" means a physical method used to restrict a  
11 person's freedom of movement or normal access to such person's body.

12 (4) "Restraint" means a physical, pharmacological, or mechanical meas-  
13 ure which restricts an individual's ability to freely move such individ-  
14 ual's head, limbs, or body, and means and includes mechanical restraint,  
15 manual restraint, and drug used as a restraint.

16 (5) "Seclusion" means the involuntary placement of an individual alone  
17 in a room or area from which such individual is physically prevented  
18 from leaving, or from which such individual reasonably believes that  
19 such individual will be prevented from leaving, provided, however, it  
20 shall not mean locking, securing, or otherwise restricting a person in  
21 such person's room during overnight sleeping hours, when such person is  
22 held, committed or confined in a secure treatment facility, as defined  
23 in section 10.03 of this chapter.

24 (c) Conditions for use. Restraint and seclusion are emergency safety  
25 interventions that shall be used only when necessary to prevent a  
26 patient from seriously injuring self or others and less restrictive  
27 techniques have been determined to be ineffective.

28 (1) Restraint or seclusion shall not be used by staff for the purposes  
29 of discipline, retaliation, or coercion, for the convenience of staff,  
30 to substitute for inadequate staffing, or as a substitute for treatment  
31 programs.

32 (2) Restraint shall be performed in accordance with safe and appropri-  
33 ate restraining techniques determined by the commissioner to be consist-  
34 ent with evidence based practices. The only permissible forms of mechan-  
35 ical restraint shall be those devices which have been authorized by the  
36 commissioner.

37 (d) Orders for restraint or seclusion. Restraint or seclusion shall be  
38 effected only by written order of a physician, based on the results of a  
39 face-to-face examination of the patient by the physician, and shall be  
40 limited in duration in accordance with regulations of the commissioner,  
41 provided, however, that in no event may an order for restraint or seclu-  
42 sion exceed two hours.

43 (e) Initiation in absence of physician. Restraint or seclusion may be  
44 initiated in the absence of a physician's written order only in situ-  
45 ations where the patient presents an immediate danger to self or others  
46 and a physician is not immediately available to examine the patient,  
47 provided, however, that the restraint or seclusion must be initiated at  
48 the direction of a registered professional nurse or nurse practitioner  
49 licensed pursuant to article one hundred thirty-nine of the education  
50 law or, in the absence of such nurse, at the direction of the senior  
51 staff member of the staff who are present.

52 (1) the nurse or senior staff member shall cause a physician to be  
53 immediately summoned; if the physician cannot reasonably arrive on site  
54 within ten minutes to assess the patient and write an order, such physi-  
55 cian may issue a telephone order to initiate the restraint or seclusion;

1 (2) the nurse or senior staff member shall note in the patient's  
2 record the time of the call, the name of the person making the call, the  
3 name of the physician contacted who gave the telephone order, and the  
4 name of the person who initiated the restraint or seclusion;

5 (3) pending the arrival of the physician, the patient shall be kept  
6 under constant supervision;

7 (4) if the physician does not arrive within thirty minutes of being  
8 summoned, the nurse or senior staff member shall record any such delay  
9 in the patient's clinical record and also place into the patient's clin-  
10 ical record a written description of the facts justifying the emergency  
11 intervention, which shall specify the nature of the intervention and any  
12 conditions for maintaining it until the arrival of the physician, the  
13 reasons why less restrictive forms of restraint or seclusion were not  
14 used, and a description of the steps taken to ensure the patient's  
15 comfort and safety;

16 (5) upon arrival, such physician must immediately conduct a face-to-  
17 face examination of the patient, in accordance with applicable federal  
18 and state regulations, and authenticate the telephone order in writing;  
19 and

20 (6) the physician shall place in the clinical record an explanation  
21 for any such delay, provided, however, that in no event shall the delay  
22 extend beyond one hour after the initiation of the intervention.

23 (f) During the time that a patient is in restraint or seclusion, such  
24 patient shall be monitored to see that such patient's physical needs,  
25 comfort, and safety are properly cared for.

26 (1) An assessment of the patient's condition shall be made at least  
27 once every thirty minutes or at more frequent intervals as directed by a  
28 physician. The assessment shall be recorded and placed in the patient's  
29 file.

30 (2) A patient shall be released from restraint or seclusion as soon as  
31 such patient no longer presents an imminent risk of danger to self or  
32 others. Unless a nurse, physician, or senior staff member determines  
33 that a patient is obviously dangerous, an attempt should be made to  
34 release the patient every thirty minutes.

35 (g) Regulations. The commissioner shall promulgate regulations to  
36 implement the provisions of this section.

37 § 3. This act shall take effect on the sixtieth day after it shall  
38 have become a law.