§ 33.04 Restraint of patients.

(a) As used in this section, "restraint" means the use of an apparatus on a patient which prevents the free movement of both arms or both legs or which totally immobilizes such patient, and which the patient is unable to remove easily.

(b) Restraint shall be employed only when necessary to prevent a patient from seriously injuring himself or others. It may be applied only if less restrictive techniques have been clinically determined to be inappropriate or insufficient to avoid such injury. It may not be employed as punishment, for the convenience of staff, or as a substitute for treatment programs.

(c) The "camisole" and the "full or partial restraining sheet", or such other less restrictive restraints authorized by the commissioner, shall be the only permissible forms of restraint.

(d) Restraint shall be effected only by written order of a physician after a personal examination of the patient except in an emergency situation, as provided by subdivision (e) of this section. The order shall set forth the facts justifying the restraint and shall specify the nature of the restraint and any conditions for maintaining the restraint. The order shall also set forth the time of expiration of the authorization, with such order to apply for a period of no more than four hours, provided, however, that any such order imposing restraint after nine o'clock p.m. may extend until nine o'clock a.m. of the next day. A full record of restraint, including all signed orders of physicians, shall be kept in the patient's file and shall be subject to inspection by authorized persons.

(e) If an emergency situation exists in which the patient is engaging in activity that presents an immediate danger to himself or others and a physician is not immediately available, restraint may be effected only to the extent necessary to prevent the patient from injuring himself or others at the direction of the senior member of the staff who is present. The senior staff member shall cause a physician to be immediately summoned and shall record the time of the call and the person contacted. Pending the arrival of a physician, the patient shall be kept under constant supervision. If a physician does not arrive within thirty minutes of being summoned, the senior staff member shall record any such delay in the patient's clinical record and also place

into the patient's clinical record a written description of the facts justifying the emergency restraint which shall specify the nature of the restraint and any conditions for maintaining the restraint until the arrival of a physician, the reasons why less restrictive forms of restraint were not used, and a description of the steps taken to assure that the patient's needs, comfort and safety were properly cared for. Such physician shall place in the clinical record an explanation for any such delay.

(f) During the time that a patient is in restraint, he shall be monitored to see that his physical needs, comfort, and safety are properly cared for. An assessment of the patient's condition shall be made at least once every thirty minutes or at more frequent intervals as directed by a physician. The assessment shall be recorded and placed in the patient's file. A patient in restraint shall be released from restraint at least every two hours, except when asleep. If at any time a patient upon being released from restraint makes no overt gestures that would threaten serious harm or injury to himself or others, restraint shall not be reimposed and a physician shall be immediately notified. Restraint shall not be reimposed in such situation unless in the physician's professional judgment release would be harmful to the patient or others.

(g) A record of all restraints shall be kept by the director of the facility.

(h) Nothing in this section shall prevent the use of mechanical supports necessary to keep an infirm or disabled patient in a safe or comfortable position or to provide stability necessary for therapeutic measures such as immobilization of fractures, administration of intravenous or other medically necessary procedures.