STATE OF NEW YORK
DEPARTMENT OF HEALTH
433 River Street, Suite 303, Troy, New York 12180-2299

Richard F. Daines, M.D.
Commissioner

Wendy E. Saunders
Executive Deputy Commissioner

December 17, 2008
08-09
RE: Restraint and Seclusion

Dear Chief Executive Officer:

This letter is written to advise hospitals of the need to review and incorporate practices that comply with revised Federal/CMS requirements pertaining to patient restraint and seclusion, including the requirement to report to CMS any death occurring during the use of or following but associated with the use of restraints or seclusion.

Centers for Medicare & Medicaid Services (CMS) at http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter08-18.pdf provide regulations and guidance pertaining to current requirements for restraint and seclusion. Hospitals, with the exception of Critical Access Hospitals, should note that reporting requirements have been added by CMS that require hospitals to report deaths associated with the use of seclusion or restraint. Part 482 – CMS Conditions of Participation for Hospitals was amended to require:

Part 482.13(g) Standard: Death reporting requirements: Hospitals must report deaths associated with the use of seclusion or restraint.

(1) The hospital must report the following information to CMS:

- *(i) Each death that occurs while a patient is in restraint or seclusion.*
- *(ii) Each death that occurs within 24 hours after the patient has been removed from restraint or seclusion.*
- *(iii) Each death known to the hospital that occurs within 1 week after restraint or seclusion where it is reasonable to assume that use of restraint or placement in seclusion contributed directly or indirectly to a patient's death. "Reasonable to assume" in this context includes, but is not limited to, deaths related to restrictions of movement for prolonged periods of time, or death related to chest compression, restriction of breathing or asphyxiation.*

(2) Each death referenced in this paragraph must be reported to CMS by telephone no later than the close of business the next business day following knowledge of the patient's death.

(3) Staff must document in the patient's medical record the date and time the death was reported to CMS.

A *Hospital Restraint/Seclusion Death Report Worksheet* (copy attached) has been prepared by CMS to assist hospitals in identifying the information required to submit a report to CMS. Use of the worksheet is not required and is provided as a convenience to facilities in

collecting required information. Questions regarding CMS reporting requirements or standards for restraint or seclusion may be directed to CMS Region II.

CMS Region II Contact Information:
Elizabeth Romani, Heath Insurance Specialist, Certification and Enforcement
(212) 616-2479, FAX (212) 312-8679, elizabeth.romani@cms.hhs.gov
Annette Tucker Osborne, Branch Manager, Survey and Certification
(212) 616-2485, FAX (212) 312-8685, annette.tuckerosborne@cms.hhs.gov

For State surveillance purposes, hospitals complying with federal standards would be in compliance with State requirements, with the following provisions:

- Unexpected deaths continue to be reportable to NYPORTS in accordance with New York State incident reporting requirements.
- For acute medical and surgical (non-psychiatric) care, the use of a restraint or seclusion is permitted upon the order of a licensed independent practitioner (LIP). In New York State a licensed independent practitioner (LIP) as recognized in Federal rules would include a physician, physician assistant and a nurse practitioner.
- For psychiatric patients or patients receiving behavioral health care in a unit approved by the Office of Mental Health (OMH), only a physician may order the use of a restraint or seclusion.
- Compliance with OMH rules for restraint and seclusion is required for all patients receiving care in a unit or service approved by the Office of Mental Health.
- State requirements impose an interval of at least once every 30 minutes or at a more frequent interval if directed by the ordering practitioner for monitoring the patient's physical needs, comfort and safety.

Should you have any questions regarding the information provided, please feel free to contact this office at (518) 402-1003.

Sincerely,

Mary Ellen Hennessy
Deputy Director
Division of Primary and Acute Care Services

Attachment

HOSPITAL RESTRAINT/SECLUSION DEATH REPORT WORKSHEET

(Revised 7/08)

A. Regional Office (RO) Contact Information:

RO Contact's Name: _____

*Date of Report to RO: _____ Time: _____

B. Provider Information:

*Hospital Name: _____*CCN: _____

Address: _____City: _____ State: _____ Zip Code: _____

Person Filing the Report: _____ Filer's Phone Number: _____

C. Patient Information:

*Name: _____ *Date of Birth: _____

Admitting Diagnoses: _____ *Date of Admission: _____

*Date of Death: _____Time of Death: _____

*Cause of Death: _____

*Did the Patient Die: *(check one only)*

_____While in Restraint, Seclusion, or Both

_____Within 24 Hours of Removal of Restraint, Seclusion, or Both

_____Within 1 Week, Where Restraint, Seclusion or Both Contributed to the Patient's Death

*Type: Physical Restraint _____ Seclusion _____ Drug Used as a Restraint_____

***Was a Two Point Soft Wrist Restraint used alone, without seclusion or chemical restraint or any other type of physical restraint?** Yes____ No_____

If YES, check "02" below and stop. No further information is required.

If NO, complete the rest of the worksheet.

*If Physical Restraint(s), Type:

_____01 Side Rails
_____02 Two Point, Soft Wrist
_____03 Two Point, Hard Wrist
_____04 Four Point, Soft Restraints
_____05 Four Point, Hard Restraints
_____06 Forced Medication Holds
_____07 Therapeutic Holds
_____08 Take-downs
_____09 Other Physical Holds
_____10 Enclosed Beds
_____11 Vest Restraints
_____12 Elbow Immobilizers
_____13 Law Enforcement Restraints
_____14 Other Physical Holds

If Drug Used as Restraint: *Drug Name_____ Dosage_____

****Mandatory field***

D. Hospital-Reported Restraint/Seclusion Information:

*1. Reason(s) for Restraint/Seclusion use: *(mandatory only if answer to D.4. is "Yes")*_____
_____
_____
_____

2. Circumstances Surrounding the Death: _____
_____
_____
_____
_____
_____

3. Restraint/Seclusion Order Details:

a. Date & Time Restraint/Seclusion Applied: _____

b. Date & Time Last Monitored: _____

*c. Total Length of Time in Restraint/Seclusion: _____

*4. Was restraint/seclusion used to manage violent or self-destructive behavior? Yes___ No___

*a. *If YES, was 1 hour face-to-face evaluation documented? Yes___ No___*

If NO, skip to Section E.

*b. Date/Time of Last Face-to-face Evaluation: _____

*c. Was the order renewed at appropriate intervals based on patient's age? Yes____ No____

Note: Orders may be renewed at the following intervals for up to 24 hours:

> 18 years of age	*every 4 hours*
9 – 17 years of age	*every 2 hours*
< 9 years of age	*every hour*

*5. If simultaneous restraint and seclusion ordered, describe continuous monitoring method(s):
_____
_____
_____

E. RO Action(s):

1. *Was a survey authorized? Yes____ No____

If YES, date SA received authorization for investigation: _____

If NO, provide brief rationale: _____

2. *If answer to E1 is yes, date RO contacted P & A: _____

(Do not contact the P&A unless a survey was authorized)

3. In the past two years, has a survey related to a restraint/seclusion death at this hospital resulted in finding condition-level patients' rights deficiencies? Yes____ No____

Mandatory field