



MARK B HORTON, MD, MSPH
Director

State of California—Health and Human Services Agency
California Department of Public Health



ARNOLD SCHWARZENEGGER
Governor

July 3, 2007

AFL 07-03

TO: GENERAL ACUTE CARE HOSPITALS
ACUTE PSYCHIATRIC HOSPITALS

SUBJECT: APPROPRIATE USE OF TAZERS IN HOSPITALS

The California Department of Public Health (CDPH), (formerly California Department of Health Services), Licensing and Certification Program, is sending this important reminder about hospitals and the use of Tazers. CDPH would like to remind all General Acute Care Hospitals of the appropriate use of Tazers by referring you to the Code of Federal Regulation (CFR). The CFR, Subchapter G – Standards and Certification – Conditions of Participation for Hospitals reads in part as follows:

482.13. CONDITION OF PARTICIPATION: PATIENTS' RIGHTS

“A hospital must protect and promote each patient’s rights.”

482.13(e) Restraint for Acute Medical and Surgical Care

“The patient has the right to be free from restraints of any form that are not medically necessary or are used as a means of coercion, discipline, convenience, or retaliation by staff.”

CMS does not consider **the use of weapons** in the application of restraint as safe appropriate health care interventions. We consider the term “weapons” to include pepper spray, mace, nightsticks, Tazers, cattle prods, stun guns, pistols and other such devices. Security staff may carry weapons as allowed by hospital policy and State and Federal law. The use of weapons by security staff is considered as a law enforcement use and not a health care intervention. CMS does not approve of the use of weapons by any hospital staff as a means of subduing a patient to place that patient in restraint or seclusion.

If a weapon is used by security or law enforcement personnel on a person in a hospital (patient, staff, visitor) to protect people or hospital property from harm, CDPH would expect the situation to be handled as a criminal activity and the perpetrator be turned over to local law enforcement.

Handcuffs, manacles, shackles, and other chain-type restraint devices are considered law enforcement restraint devices and would not be considered safe appropriate health care restraint interventions for use by hospital staff to restrain patients.

The use of such devices by individuals not employed by a hospital or contracted law enforcement officers are governed by Federal and State law and regulations. If individuals not employed by a hospital or contracted law enforcement officers bring a prisoner wearing handcuffs or other restraints into the hospital for care, the officers are responsible for monitoring and maintaining the custody of their prisoner (the hospital's patient) and the officers will determine when their prisoner's restraint device can be removed in accordance with Federal and State law and regulations. This does not diminish the hospital's responsibility for appropriate assessment and provision of care for their patient (the officer's prisoner).

482.13(f)(6) Seclusion and Restraint for Behavior Management

"All staff who have direct patient contact must have ongoing education and training in the proper and safe use of seclusion and restraint application and techniques and alternative methods for handling behavior, symptoms and situations that traditionally have been treated through the use of restraints or seclusion."

"The hospital must report to CMS any death that occurs while a patient is restrained or in seclusion, or where it is reasonable to assume that a patient's death is a result of restraint or seclusion."

If hospitals are not currently operating within the parameters of the regulations for using restraints and seclusion as explained in this notice, hospitals should modify its policies and procedures to comply with the law.

Sincerely,

Original Signed by Kathleen Billingsley, R.N.

Kathleen Billingsley, R.N.
Deputy Director