



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3899

Introduced 2/26/2009, by Rep. Linda Chapa LaVia

SYNOPSIS AS INTRODUCED:

405 ILCS 5/2-108

from Ch. 91 1/2, par. 2-108

Amends the Mental Health and Developmental Disabilities Code. Provides that restraint may be used only as an emergency measure of last resort (instead of only as a therapeutic measure) to prevent a recipient of mental health services from causing physical harm to himself or physical abuse to others. Provides that a patient shall be placed in a position that allows airway access and does not compromise respiration. Provides that a face-down or prone position shall not be used on children and adolescents. Provides that a face-down or prone position shall not be used on adults unless: (1) there is a documented specified patient preference and no psychological or medical contraindications to its use; or (2) there is an overriding psychological or medical justification for its use, which shall be documented. Effective immediately.

LRB096 04203 DRJ 14247 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning mental health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Mental Health and Developmental
5 Disabilities Code is amended by changing Section 2-108 as
6 follows:

7 (405 ILCS 5/2-108) (from Ch. 91 1/2, par. 2-108)

8 Sec. 2-108. Use of restraint. Restraint may be used only as
9 an emergency ~~a therapeutic~~ measure of last resort to prevent a
10 recipient from causing physical harm to himself or physical
11 abuse to others. Restraint may only be applied by a person who
12 has been trained in the application of the particular type of
13 restraint to be utilized. In no event shall restraint be
14 utilized to punish or discipline a recipient, nor is restraint
15 to be used as a convenience for the staff.

16 (a) Except as provided in this Section, restraint shall be
17 employed only upon the written order of a physician, clinical
18 psychologist, clinical social worker, or registered nurse with
19 supervisory responsibilities. No restraint shall be ordered
20 unless the physician, clinical psychologist, clinical social
21 worker, or registered nurse with supervisory responsibilities,
22 after personally observing and examining the recipient, is
23 clinically satisfied that the use of restraint is justified to

1 prevent the recipient from causing physical harm to himself or
2 others. In no event may restraint continue for longer than 2
3 hours unless within that time period a nurse with supervisory
4 responsibilities or a physician confirms, in writing,
5 following a personal examination of the recipient, that the
6 restraint does not pose an undue risk to the recipient's health
7 in light of the recipient's physical or medical condition. The
8 order shall state the events leading up to the need for
9 restraint and the purposes for which restraint is employed. The
10 order shall also state the length of time restraint is to be
11 employed and the clinical justification for that length of
12 time. No order for restraint shall be valid for more than 16
13 hours. If further restraint is required, a new order must be
14 issued pursuant to the requirements provided in this Section.

15 (b) In the event there is an emergency requiring the
16 immediate use of restraint, it may be ordered temporarily by a
17 qualified person only where a physician, clinical
18 psychologist, clinical social worker, or registered nurse with
19 supervisory responsibilities is not immediately available. In
20 that event, an order by a nurse, clinical psychologist,
21 clinical social worker, or physician shall be obtained pursuant
22 to the requirements of this Section as quickly as possible, and
23 the recipient shall be examined by a physician or supervisory
24 nurse within 2 hours after the initial employment of the
25 emergency restraint. Whoever orders restraint in emergency
26 situations shall document its necessity and place that

1 documentation in the recipient's record.

2 (c) The person who orders restraint shall inform the
3 facility director or his designee in writing of the use of
4 restraint within 24 hours.

5 (d) The facility director shall review all restraint orders
6 daily and shall inquire into the reasons for the orders for
7 restraint by any person who routinely orders them.

8 (e) Restraint may be employed during all or part of one 24
9 hour period, the period commencing with the initial application
10 of the restraint. However, once restraint has been employed
11 during one 24 hour period, it shall not be used again on the
12 same recipient during the next 48 hours without the prior
13 written authorization of the facility director.

14 (f) Restraint shall be employed in a humane and therapeutic
15 manner and the person being restrained shall be observed by a
16 qualified person as often as is clinically appropriate but in
17 no event less than once every 15 minutes. The qualified person
18 shall maintain a record of the observations. Specifically,
19 unless there is an immediate danger that the recipient will
20 physically harm himself or others, restraint shall be loosely
21 applied to permit freedom of movement. Further, the recipient
22 shall be permitted to have regular meals and toilet privileges
23 free from the restraint, except when freedom of action may
24 result in physical harm to the recipient or others.

25 (f-5) A patient shall be placed in a position that allows
26 airway access and does not compromise respiration. A face-down

1 or prone position shall not be used on children and
2 adolescents. A face-down or prone position shall not be used on
3 adults unless: (1) there is a documented specified patient
4 preference and no psychological or medical contraindications
5 to its use; or (2) there is an overriding psychological or
6 medical justification for its use, which shall be documented.

7 (g) Every facility that employs restraint shall provide
8 training in the safe and humane application of each type of
9 restraint employed. The facility shall not authorize the use of
10 any type of restraint by an employee who has not received
11 training in the safe and humane application of that type of
12 restraint. Each facility in which restraint is used shall
13 maintain records detailing which employees have been trained
14 and are authorized to apply restraint, the date of the training
15 and the type of restraint that the employee was trained to use.

16 (h) Whenever restraint is imposed upon any recipient whose
17 primary mode of communication is sign language, the recipient
18 shall be permitted to have his hands free from restraint for
19 brief periods each hour, except when freedom may result in
20 physical harm to the recipient or others.

21 (i) A recipient who is restrained may only be secluded at
22 the same time pursuant to an explicit written authorization as
23 provided in Section 2-109 of this Code. Whenever a recipient is
24 restrained, a member of the facility staff shall remain with
25 the recipient at all times unless the recipient has been
26 secluded. A recipient who is restrained and secluded shall be

1 observed by a qualified person as often as is clinically
2 appropriate but in no event less than every 15 minutes.

3 (j) Whenever restraint is used, the recipient shall be
4 advised of his right, pursuant to Sections 2-200 and 2-201 of
5 this Code, to have any person of his choosing, including the
6 Guardianship and Advocacy Commission or the agency designated
7 pursuant to the Protection and Advocacy for Developmentally
8 Disabled Persons Act notified of the restraint. A recipient who
9 is under guardianship may request that any person of his
10 choosing be notified of the restraint whether or not the
11 guardian approves of the notice. Whenever the Guardianship and
12 Advocacy Commission is notified that a recipient has been
13 restrained, it shall contact that recipient to determine the
14 circumstances of the restraint and whether further action is
15 warranted.

16 (Source: P.A. 92-651, eff. 7-11-02.)

17 Section 99. Effective date. This Act takes effect upon
18 becoming law.