

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-09-11

DATE: November 7, 2008

TO: State Survey Agency Directors

FROM: Director
Survey and Certification Group

SUBJECT: Release of Report: “Freedom from Unnecessary Physical Restraints: Two Decades of National Progress in Nursing Home Care”

Memorandum Summary

- This report evaluates the efforts to reduce the use of physical restraints after Congressional Passage of the 1987 Nursing Home Reform Act.
- Because of the hard work of practitioners, providers, advocates, and government agencies, the percentage of nursing home residents physically restrained daily substantially declined from 21.1 percent in 1991 to less than 5.0 percent in 2007.

Freeing nursing home residents from unnecessary restraints is one of the great success stories that developed from the 1987 Nursing Home Reform Act passed by Congress. Codified as section 1819 and 1919 of the Social Security Act, the landmark legislation declared that every nursing home must protect and promote the rights of each resident, including:

“The right to be free from ... any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident’s medical symptoms.”¹

When the Nursing Home Reform Act was adopted it was widely accepted to use restraints as an acceptable and widely-used option to manage the behavior of residents who wandered, were agitated, or who, in the view of treatment staff, simply needed to be restrained. However, the standard use of restraints was not supported by a body of research that found that physical restraints had serious negative effects. Such negative effects could include placing residents at risk of death from asphyxiation. Nor was the standard supported by a growing body of regulators, practitioners, providers, and advocates.

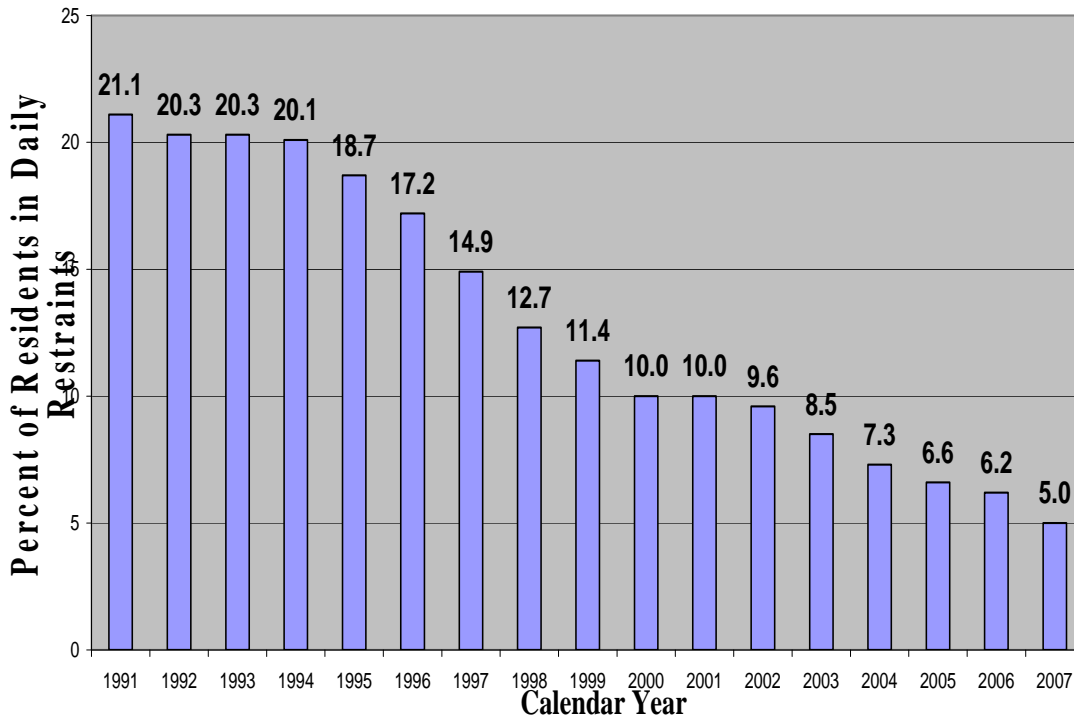
The 1987 law crystallized a growing consensus against the use of restraints throughout all sectors of nursing home service delivery, and eventually led to a complete change in how restraint use is viewed. Through the work of thousands of individuals in both nursing homes and in government, the use of physical restraints has largely been replaced with improved methods of care.

¹ Section 1819(c) (1) (A) (ii), and section 1919(c) (1) (A) (ii), of the Social Security Act.

Year after year, the Centers for Medicare & Medicaid Services (CMS)² and advocacy organizations, educators, and nursing homes implemented one initiative after another, building upon the earlier learning. And year after year, as nursing home staff learned more about the dangers of physical restraints and learned better methods of working with residents, the use of physical restraints declined.

The graph below portrays the substantial decline in the percentage of nursing home residents physically restrained daily, from 21.1 percent in 1991 to less than 5.0 percent in 2007 – and declining. We are delighted to share this report and hope that it will be helpful in understanding the progress made so far and our continuing efforts to prevent unnecessary physical restraints.

Percentage of NH Residents in Daily Physical Restraints, United States 1991-2007



Source: CMS Survey & Certification Group Oscar and QM data from MDS

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management
Quality Improvement Organizations

Attachment: Freedom from Unnecessary Physical Restraints: Two Decades of National Progress in Nursing Home Care

² And its predecessor agency, the Health Care Financing Administration (HCFA)

Freedom from Unnecessary Physical
Restraints:
Two Decades of National Progress
in Nursing Home Care

*Status of Efforts to Reduce the Use of Physical Restraints
after Congressional Passage of the
1987 Nursing Home Reform Act*

Centers for Medicare & Medicaid Services
July 2008

Executive Summary

Freeing nursing home residents from unnecessary restraints is one of the great success stories that developed from the 1987 Nursing Home Reform Act passed by Congress. Codified as section 1819 and 1919 of the Social Security Act, the landmark legislation declared that every nursing home must protect and promote the rights of each resident, including:

“The right to be free from ... any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident’s medical symptoms.”³

When the Nursing Home Reform Act was adopted it was widely accepted to use restraints as an acceptable and widely-used option to manage the behavior of residents who wandered, were agitated, or who, in the view of treatment staff, simply needed to be restrained.

The standard use of restraints was not supported, however, by a body of research that found that physical restraints had serious negative effects. Such negative effects could include placing residents at risk of death from asphyxiation. Nor was the standard supported by a growing body of regulators, practitioners, providers and advocates. The 1987 law crystallized a growing consensus against the use of restraints throughout all sectors of nursing home service delivery, and eventually led to a complete change in how restraint use is viewed.

Through the work of thousands of individuals in both nursing homes and in government, the use of physical restraints has largely been replaced with improved methods of care. Year after year, the Centers for Medicare & Medicaid Services (CMS)⁴ and advocacy organizations, educators, and nursing homes implemented one initiative after another, building upon the earlier learning. And year after year, as nursing home staff learned more about the dangers of physical restraints and learned better methods of working with residents, the use of physical restraints declined from 21.1 percent in 1991 to less than 5.0 percent in 2007.

³ Section 1819(c) (1) (A) (ii), and section 1919(c) (1) (A) (ii), of the Social Security Act.

⁴ And its predecessor agency, the Health Care Financing Administration (HCFA)

Introduction

The Centers for Medicare & Medicaid Services (CMS) has long recognized the importance of making national improvements in the appropriate use of restraints and decreasing the prevalence of pressure ulcers in nursing homes. In 1987 Congress passed landmark legislation to improve the quality of care in the nation's nursing homes. Known as the Nursing Home Reform Act (or "OBRA 87"), the Act charged nursing homes with the responsibility to provide services to "attain and maintain the highest practicable physical, mental, and psychosocial well-being" for those living in a nursing home.

An important aspect of a nursing home resident's well-being is the ability to be free from physical restraints unless truly necessary. Over the years, a growing body of research has indicated that the daily use of physical restraints is not only unnecessary, but dangerous as well. For these reasons CMS worked with consumer advocacy organizations and leaders in the nursing home industry to mobilize the professional community to:

- Reduce the use of restraints,
- Adopt specific regulations about restraints,
- Track the use of daily restraints as an important quality measure, and
- Publish results on CMS' *Nursing Home Compare* website for every nursing home.

This report describes some of the results of these efforts to reduce unnecessary physical restraints in the nation's nursing homes.

Why Lowering the Use of Physical Restraints is Important

CMS has developed and implemented requirements designed to protect Medicare and Medicaid beneficiaries from inappropriate uses of physical restraints and the harmful effects these devices have on residents' physical and mental health.

CMS uses the prevalence of daily physical restraint use as an indicator of quality of care and a quality of life for nursing home residents. The use of physical restraints can cause harm including strangulation, loss of muscle tone, decreased bone density (with greater susceptibility for fractures), pressure ulcers, decreased mobility, depression, agitation, loss of dignity, incontinence, constipation, and in some cases, resident death. Many providers and consumers still mistakenly hold, however, that restraints are generally necessary to prevent residents from injuring themselves. Research and standards of practice show that the belief that restraints ensure safety is often unfounded.

Education about the dangers caused by using physical restraints and about alternatives to restraint use continues to be important. Residents and families, in particular, need to be informed about safety hazards of these devices. In practice, restraints have many negative side effects and risks that, in some cases, far outweigh any possible benefit that can be derived from their use. Evidence does not support the notion that the use of physical restraints, including but not limited to side rails, will prevent, or reduce, falls. Additionally, falls that occur while a person is physically restrained often result in more severe injuries. Restraints pose a possible safety hazard as many residents have been hurt and even died being entangled in them.

While the law and subsequent regulation do not prohibit the appropriate use of physical restraints in nursing homes, the regulation provides that “the resident has the right to be free from any physical or chemical restraints imposed for discipline or convenience, and not required to treat the resident’s medical symptom.”⁵ A “physical restraint” is defined as: “any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident’s body that the individual cannot remove easily which restricts freedom of movement or normal access to one’s body.”⁶ CMS is committed to reducing unnecessary daily physical restraint use in nursing homes and ensuring residents are free of physical restraints unless permitted by regulation.

While there is no way to know what the appropriate use of restraint percentage should be, research has shown that the dangers posed by the use of physical restraints mandate that physical restraint use should be the exception and not the rule. Standards of practice have supported this view as well. Over the years, the prevalence of daily restraint use in nursing homes has dropped from approximately 21.1 percent in 1991 to 5 percent today.

The gradual – but consistent - reduction in the use of restraints is a result of many factors including: education of consumers and providers, current research, better enforcement, awareness of the risks and negative side effects of physical restraint use, and an increase demand for quality of life for nursing home residents.

Despite improvements, there is still much to be done. Implementation of restraint reduction strategies and the maintenance of a restraint free environment are challenging but achievable goals. The reduction in the daily use of physical restraints continues to be one of CMS’ major quality initiatives.

What CMS Has Done to Advance the Agenda and Help?

- **First, it’s Not about CMS** – Credit for critical advances in reduction of daily restraints belongs to the dedicated consumer advocates, professionals, and nursing home staff who carefully cultivated a better understanding of methods to work with nursing home residents to attain, in the words of the Nursing Home Reform Act, “... the highest practicable physical, mental, and psychosocial well-being of each resident...” We owe our thanks and respect to such individuals. Recent CMS actions to support their efforts are described below.
- **Nursing Home Quality Initiative** - In November 2001, the Secretary of Health and Human Services announced the Nursing Home Quality Initiative (NHQI) to continue to improve quality of care in nursing homes. Working with measurement experts, the National Quality Forum (NQF)⁷, and a diverse group of community stakeholders, CMS took the first step by developing a set of improved nursing home quality measures. In late 2003, CMS adopted these quality measures and began working to make this information available to consumers.
- The quality measures are determined by evaluating information from the assessments of residents that are required, and recorded as the Minimum Data Set (MDS). The CMS MDS is

⁵ 42 C.F.R. 483.13(a)

⁶ State Operations Manual, Appendix PP, Interpretive Guidance to Surveyors of Long Term Care Facilities, 483.13(a), F221

⁷ NQF’s steering committee was made up of members of organizations that represent nursing home patients, seniors, other consumer advocates, the nursing home industry, researchers and States.

a screening tool used to identify specific characteristics, functional abilities, and specific medical and socially related aspects of care for an individual resident in a nursing home. It is a requirement for all Medicare/Medicaid certified nursing homes to complete the MDS assessment on each resident residing in the facility.

The quality measures provide the nursing home with a picture of their residents at a point in time. For example, the physical restraints measure indicates what proportion of nursing home residents are restrained daily during a particular time period. Nursing homes are encouraged to use the information from the quality measures to help focus their quality improvement activities.

- **Government Performance Results Act** – By including the restraints reduction as a goal for the Federal “Government Performance Results Act (GPRA),” CMS publicly committed itself to aligning its various programs in support of nursing home efforts, to track and publish the results, and to have CMS held accountable for progress or failure.

For national GPRA reporting purposes, nursing homes’ quality measure scores are averaged across the country. CMS uses the GPRA score to evaluate national averages, and uses the quality measure and GPRA goal to track progress in reducing the prevalence of daily physical restraint use at national, state, and facility level.

CMS data indicates that there is currently notable geographical variation in the prevalence of restraint use. We believe that constant examination, dissemination, and re-examination of data, at provider, state, and national levels will provide focus to our efforts to achieve an environment which does not use physical restraints unnecessarily.

- **Nursing Home Compare Web site** -- While the public may not be familiar with GPRA, they are likely to be familiar with CMS’ *Nursing Home Compare* Web site at www.medicare.gov. *Nursing Home Compare* allows consumers to see a nursing home’s daily physical restraint rate compared to a state and national average. CMS wants consumers to use the quality measures as an additional resource when making a decision about placing a family member in a nursing home or when assessing the quality of care their loved one is receiving. CMS encourages consumers – residents and their family members - to use these measures as an opportunity to discuss the care in a nursing home with the nursing home administrator or director of nursing. In addition to visiting a nursing home and meeting the care team, the quality measures are another source of information consumers may consider when deciding about nursing home care.
- **Annual Surveys** -- One of the ways in which CMS has stimulated reduction in the daily use of physical restraints is through the annual nursing home survey (inspection). CMS instructed and trained State and CMS surveyors (who conduct annual inspections of nursing homes) to pay close attention to nursing homes’ use of restraints, and to cite nursing homes for deficient practices when they discover that residents are restrained without clear medical reason. The survey process helps facilities identify problems and put corrective actions in place.
- **Quality Improvement Organizations (QIOs)** -- As part of the “Nursing Home Quality Initiative, CMS included the nursing home physical restraint quality measure in the QIOs “7th Statement of Work (2002-2005).” The CMS contract charged all 53 QIOs to work with nursing homes to reduce physical restraints throughout the country. The QIOs promote

awareness and use of publicly reported nursing home quality measures, and provide assistance to facilities that request assistance in improving their performance. Reduction in the prevalence of physical restraints was one of the most frequently chosen quality improvement projects by the QIOs. For those nursing homes working intensively with the QIO, the average reduction in restraint use has been 32% (with some States achieving restraint reductions as high as 65%)⁸. With CMS' new three-year contract that begins in August 2008, QIOs will work particularly with nursing homes that have higher prevalence of daily physical restraints.

- **Advancing Excellence in America's Nursing Homes** -- In September 2006, CMS helped launch a new coalition based, two-year campaign called Advancing Excellence in America's Nursing Homes. This voluntary campaign aims at reinvigorating efforts to improve the quality of care and quality of life for those living or recuperating in America's nursing homes. The campaign's coalition includes long-term care providers, caregivers, labor, medical and quality improvement experts, government agencies, consumers, and others. One of the campaign goals is to monitor key indicators of nursing home care quality. Reducing the daily use of physical restraints is one of the campaign's focuses. The campaign helps nursing homes to learn the best ways to minimize physical restraint use, and the goal is for at least 30,000 fewer residents to use restraints by September 2008. The Campaign's Steering Committee has identified a physical restraint rate under 3% as a goal for excellence in this measure. More information about the campaign may be found at <http://www.nhqualitycampaign.org/>
- **Education & Tools** -- CMS furthered its commitment to reducing daily restraint use through the development and dissemination of a tool kit for use by States and QIOs and producing educational satellites. In 2007, CMS produced a three part satellite broadcast series titled, "Restraint Use in Nursing Homes: The Exception Not the Rule." The broadcasts served two purposes. One purpose was to train state nursing home survey and certification staff about the proper way to interpret the restraint regulation and survey nursing homes to assure compliance with the requirements. Another goal of the broadcasts was to provide providers with the information needed to understand the issues surrounding physical restraint use in nursing homes. The broadcast provided tools providers can use to initiate restraint reduction efforts and work toward becoming a restraint free facility. While CMS does not require facilities to be restraint free, as a best practice, we support this goal.

Results

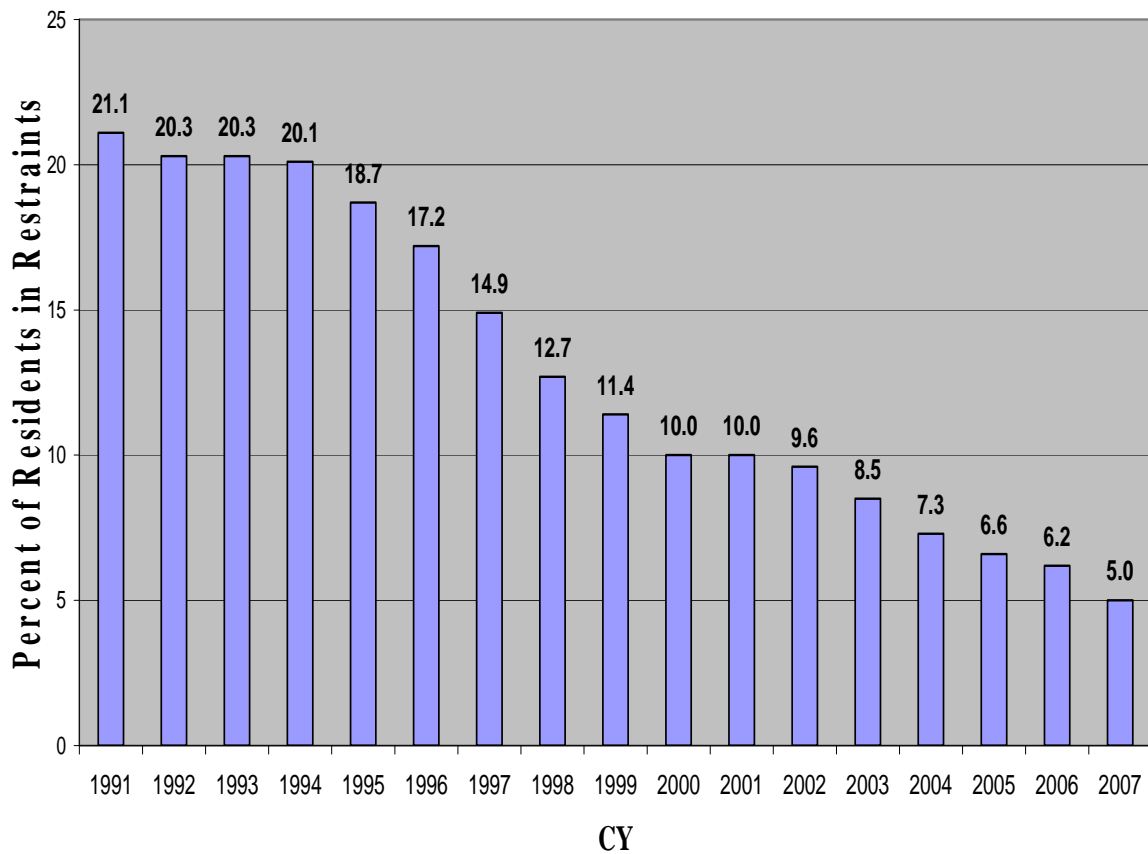
By examining physical restraint prevalence across the country we know that many providers have made great strides to reduce daily physical restraint use in their facilities. We know that providers are focusing on individual assessment and care planning to find creative alternatives to restraint use. Much has been accomplished over the last twenty years.

Daily physical restraint use in nursing homes has decreased dramatically since CMS first implemented the restraint regulation in 1990. Daily use of physical restraints in nursing homes has decreased fairly steadily in the last 16 years, with a national decrease from 21.1 percent in 1991 to 5.0 percent in 2007 as depicted in the graph below.

⁸ William Rollow, Terry Lied, Paul McGann, James Poyer, Lawrence LaVoie, Robert Kambic, Dale Bratzler, Allen Ma, Edwin Huff, and Lawrence Ramunno. "Assessment of the Medicare Quality Improvement Organization Program". *Annals of Internal Medicine* 2006; 145:342-353.

As of 2008 there were 8 States with statewide averages below 2%, and 19 States with statewide averages below 3%. Unfortunately, 17 States still have statewide averages above 5%, with one State above 10%. Is there reason to hope for better results in the future? The answer is assuredly “yes.” For example, the two States with the highest use of physical restraints at the end of 2003 (whose nursing homes restrained 16 and 18% of their residents daily, respectively), were able to reduce the use of restraints to 10% or less by the end of 2007. Such results offer hope for significant progress still to come in States with high average use of restraints. CMS will continue to be diligent in our efforts to ensure each resident’s right to be free from physical restraints.

Percentage of NH Residents in Daily Physical Restraints, United States 1991-2007



Source: CMS Survey & Certification Group, Oscar and QM data via MDS