

Introduction

Background

In the late 1990s, a number of highly publicized deaths of children and adults in mental health and residential care facilities increased public awareness of the risk of improper restraint and seclusion use. In 1998, the *Hartford Courant* surveyed all 50 states and found that 142 reported deaths had occurred in the previous decade as a direct result of inappropriate restraint and seclusion use (Allen, 1998). As part of the *Courant's* investigative series, the newspaper commissioned a report from the Harvard Center for Risk Analysis, which estimated that 50 to 150 deaths occur each year as a result of improper restraint and seclusion (Allen, 1998). The increase in public awareness of the risk associated with the use of restraint and seclusion prompted legislators to introduce bills in several states and the U.S. Congress that sought to more closely monitor the use of emergency safety procedures

The Federal Response

The most prominent piece of legislation to emerge from this movement was the Children's Health Act of 2000 (PL. 106-310), which reauthorized the Substance Abuse and Mental Health Services Administration (SAMHSA) and established requirements regarding the use of restraints and seclusion in certain medical and nonmedical facilities (Child Welfare League of America [CWLA], 2003). The Children's Health Act includes two very distinct sections that specifically address emergency safety interventions: Part H, which

2 State Regulations for Behavior Support and Intervention

applies to “a public or private general hospital, nursing facility, intermediate care facility, or other health care facility that receives support in any form from any program supported in whole or in part with funds appropriated to any federal department or agency” and Part I, which applies to “non-medical community-based facilities for children and youth.”

The Center for Medicare and Medicaid Services (CMS), formerly the Health Care Financing Administration, was given responsibility for promulgating rules and regulations about the use of restraint and seclusion in Part H facilities, which include psychiatric residential treatment facilities for individuals younger than 21. CMS designated SAMHSA to promulgate rules and regulations for the use of restraint and seclusion in Part I facilities (CWLA, 2002a).

On January 22, 2001, CMS published in the *Federal Register* interim final rules for the use of restraint and seclusion in Part H psychiatric residential treatment facilities. In May, following a comment period, CMS published the amended interim final rule for the use of restraints and seclusion in Part H facilities. The amended rule attempted to address the concerns submitted in comments on the original interim final rule by further clarifying which facilities were affected by the rule, revising the reporting requirements, and broadening the personnel requirements for those permitted to restrain and seclude residents. To date, no rules have been put forth regarding Part I facilities.

State Responses

The passage of the Children’s Health Act and the publishing of the interim final rule and the amended interim final rule motivated several states to evaluate and revise their regulations regarding restraint and seclusion use. These activities also pushed several states to develop more restrictive regulations than the Children’s Health Act and federal rules mandate. In addition, the Council on Accreditation and the Joint Commission on Accreditation of Healthcare Organizations revised their standards based on federal regulations and best practice findings.

CWLA’s Involvement

In October 2001, CWLA and the Federation of Families for Children’s Mental Health received a three-year grant to serve as the Coordinating Center for the Best Practice in Behavior Support and Intervention Project. The project is funded by SAMHSA’s Center for Mental Health Services. The coordinating

center is responsible for evaluating the efforts of five demonstration sites across the country. The project will conclude as of September 31, 2004. When it is finished, the center will disseminate its best practice findings for the reduction and eventual elimination of restraint and seclusion.

As part of its efforts, CWLA's National Coordinating Center for Behavior Support and Intervention developed a resource that outlines restraint and seclusion rules, standards, and regulations of states, accrediting bodies, and the federal government (CWLA, 2002b). The resource is currently available on the project's website at www.cwla.org/programs/behavior/State_comparison.htm. After analyzing those rules, standards, and regulations, the coordinating center identified the promising practices for state regulations detailed in this monograph. *State Regulations for Behavior Support and Intervention* will be an important tool for states and others interested in the development of best practice rules, standards, and regulations for the reduction of restraint and seclusion.

About This Monograph

From the resource, CWLA has compiled what it believes to be the most promising approaches to each aspect of behavior support and intervention. The material that follows, addressing all facets of the problem, is intended to help steer policy and practice in states and counties that want to reduce their use of restraint and seclusion in child-serving facilities. Citations of the existing federal and state regulations, as well as accreditation resources, follow for the reader's general reference, although specific states are not included in the models' text.

