

De-escalation and the Patient's Rights Condition of Participation

*Note: This section provides an overview of federal requirements related to use of restraints and seclusion in a hospital setting. It is not intended to constitute compliance advice or guidance. Readers are strongly encouraged to consult with their compliance team to ensure their work is consistent with applicable federal and state laws and regulations.

What is the Patient's Rights Condition of Participation?

The Medicare Conditions of Participation (CoP) include requirements for hospitals intended to protect the rights of their patients, known as the Patient's Rights CoP. Patients' rights are detailed in [sections 482.13 and 485.614](#) of title 42, Code of Federal Regulations, and include but are not limited to the right to receive care in a safe setting, the right to be free from all forms of abuse and harassment, and rights pertaining to hospital use of restraints and seclusion. The requirements specific to restraints and seclusion for critical access hospitals in section 485.614 largely mirror those for acute care and other hospitals in section 482.13.

What are the requirements for restraints and seclusion?

Paragraph (e) of the Patient's Rights CoP is specific to the use of restraints and seclusion. This paragraph explicitly defines the terms "restraint" and "seclusion" and lists the requirements that must be met before restraints or seclusion may be used. This includes the requirement to use the least restrictive intervention that will effectively protect patients, staff and others from harm. Unlike many other CoPs, the restraints and seclusion requirements contain specific standards for evaluating patients and ordering restraints or seclusion, along with documentation requirements.

Paragraph (f) explains requirements for staff training. These standards include minimum requirements for the content and frequency of mandatory training, as well as trainer qualifications and requirements for documenting training. The CoP requires all staff designated as having direct patient care responsibilities, including contract staff, to be trained in non-physical intervention skills, such as de-escalation techniques and strategies, as part of the mandatory training required under the Patient's Rights CoPs. If a hospital employs security or other non-healthcare personnel that may be involved in assisting direct care staff, CMS requires that those security and non-healthcare personnel participate in restraints and seclusion training. In the event that seclusion or restraints are needed to ensure the safety of patients, staff or others, the CoP requires documentation explaining why less restrictive methods were not, or would not have been, effective.

Who does this apply to?

The Patient's Rights CoP applies to all Medicare or Medicaid participating hospitals subject to the CoPs under 42 C.F.R. 482 and 485.614, including acute care, long-term care, psychiatric, children's and cancer hospitals, and critical access hospitals. The CoPs apply to all units within the hospital, including medical and surgical units, critical care units, forensic units, the emergency department, psychiatric units and all other units. It also applies to all hospital patients who are restrained or secluded, regardless of age, payer, and whether they are admitted or whether they are inpatient or outpatient.

Where can I find more information?

- The Patient's Rights CoPs may be found at 42 C.F.R. 482.13 and 42 C.F.R. 485.614; requirements specific to restraints and seclusion are located in paragraphs (e) and (f) of these sections.
- The State Operations Manual (SOM), which contains interpretive guidance for hospitals, may be downloaded from the CMS website. Survey protocol, regulations and interpretive guidance for hospitals subject to the requirements of section 482.13 can be found in Appendix A of the SOM. CMS has not published interpretive guidelines specific to the Patient's Rights CoP for critical access hospitals. The SOM is maintained and updated by CMS; when reviewing the SOM, all hospitals and health systems should ensure they are viewing the most current edition.

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