



# Disability Law Center's Self-Advocacy Materials

Updated October 2018

## Rights In Facilities

This document is designed for people with disabilities.

The information is about your legal rights and how to advocate for yourself as a resident in Massachusetts.

Contact us to request this information in an alternative format.

617-723-8455  
800-872-9992  
[mail@dlc-ma.org](mailto:mail@dlc-ma.org)

### Funding

DLC receives funding from government grants, private foundations, and individual contributions. For details about our funding and programs, please visit our website:

<https://dlc-ma.org>



## Restraint and Seclusion

### You Will Learn About:

- Differences between Restraint and Seclusion
- When Restraint and Seclusion Can Be Used
- Alternatives to Restraint and Seclusion
- Unlawful Restraints

This document includes general information about legal issues and is intended to be used for informational purposes only. These informational materials should not be taken as legal advice, and do not create an attorney-client relationship. The outcome of any particular matter will depend on a variety of factors. For specific legal problems you would need to contact an attorney.

---

# Differences between Restraint and Seclusion

## What is Restraint and Seclusion?

Restraint and seclusion is used in an emergency to limit a patient's movement. Restraint and seclusion is allowed to stop extreme violence, personal injury or suicide. Staff can restrain or seclude a patient when there is a **substantial risk of serious harm**.

Restraint and seclusion may only be used when no other less serious action can be used effectively. Staff is required to try other options before using restraint and seclusion.

## What is the Difference between Seclusion and Restraint?

Seclusion is when a patient is placed in a room that he or she cannot leave. This can happen by locking the door to the room or by having staff stop the patient from leaving. Seclusion can also happen when staff threatens to restrain or take away a patient's privileges if they try to leave the room.

Restraint is when a person cannot move because of physical force; a mechanical device; or by medication. These three types of restraint are called:

- Physical Restraint
- Mechanical Restraint
- Medication Restraint

The difference between restraint and seclusion is that seclusion is not physically controlling the patient's ability to move.

---

## When Restraint and Seclusion Can Be Used

### When are Restraint and Seclusion Not Allowed?

Restraint and seclusion are not allowed when:

- The risk of harm has passed
- Staff can safely move away
- It is used to punish the patient
- The patient wants to be secluded or restrained
- The patient is unable to cause harm

**The risk of harm has passed:** The risk of harm has passed when the patient cannot do anything that will cause instant harm. For example, if a patient is upset and throws a chair, but they quickly calm down, there is not a risk of harm anymore. In that situation, the use of seclusion or restraint is not allowed.

**Staff can safely move away:** If a patient is upset in a space where they cannot hurt themselves or others, the staff should move away. In this situation, the use of seclusion or restraint is not allowed.

**To punish the patient:** Throwing objects, destroying property, name calling, making meaningless threats, or being offensive cannot be the reason for restraint or seclusion. Restraint and seclusion

should only happen when those behaviors are paired with the immediate risk of serious harm. Staff cannot punish a patient for bad behavior with restraint and seclusion.

**The patient wants to be secluded or restrained:** Sometimes patients want to be restrained or secluded. This can happen because a person is used to being secluded or restrained so it makes him feel safe and in control. Some patients may ask for a medication restraint because they are having difficult thoughts or feelings. While these may be seen as an act of compassion, it is not an allowable use of restraint or seclusion.

**The patient is unable to cause harm:** It is common for hospitals to seclude and restrain patients who are unable to cause harm. For example, when a patient is in a mechanical restraint it is practically impossible for the patient to cause harm to himself or others. However, hospitals regularly give a medication restraint to patients already in a mechanical restraint.

The reasons hospitals give for doing this include: the patient is struggling, medication will decrease the time the patient is in restraints, or it will quiet a patient who is yelling or making threats. Despite the patient's behavior there is no risk of serious harm so restraint is not allowed. This does not mean that staff cannot offer the patient medication to calm down. It means that the behavior, by itself, does not allow for the use of a medication restraint.

Another reason for giving a medication restraint to a person in mechanical restraint is to prevent a medical emergency. While a medical emergency may require treatment, only a "behavioral" emergency where there is a substantial risk of serious harm (such as extreme violence, personal injury or suicide) allows for the use of restraint.

Hospitals are starting to work on getting rid of the use of restraint and seclusion. They are learning that there are a lot of tools and activities that can help patients manage their thoughts and feelings. These tools include weighted blankets, comfort rooms, aroma-therapy, music, exercise, dance, yoga, and pet therapy. These activities have been shown to be helpful to patients.

---

## Alternatives to Restraint and Seclusion

### What About Trauma Informed Care And Alternatives To Restraint?

The use of restraint and seclusion is upsetting for patients and staff. Patients and staff are often injured. Restraint can sometimes result in death. Also, being mechanically restrained and getting injections into the patient's hip or buttocks can be especially upsetting for patients who are victims of sexual assault.

Hospitals are working to get rid of the use of restraint and seclusion. Teaching staff different ways to help patients during certain behaviors is helping to reduce the use of restraints and seclusion. Individual crises plans can help staff to understand a patient's 'triggers.' The plans can help staff learn ways to de-escalate a patient. Individual plans also help staff understand what type of restraint a patient would prefer if a restraint is needed.

These techniques are always changing and improving. This is done by talking to clients, staff training and looking at situations where the restraint was successfully avoided.

---

# Unlawful Restraints

## What Do I Do If I Believe I Was Unlawfully Restrained?

The law about the use of restraints is 107 CMR § 27.00. These regulations say when the use of restraint and seclusion are allowed. A person may file a complaint with the Human Rights Officer (HRO) at the hospital where the restraint or seclusion happened if he/she believe the restraint or seclusion was unlawful.

A complaint can also be filed with the Director of Human Rights, Director of Licensing, and the Person in Charge of the Hospital or the Area Director for the Department of Mental Health. A complete list with the contact information for these individuals can be found at:

<https://www.mass.gov/orgs/massachusetts-department-of-mental-health>