

3. Seclusion and Restraint

Comparison of MHC & CMS Seclusion/Restraint Requirements

Use of Seclusion and Restraint in Hospitals - 42 CFR Part 482

Use of Seclusion and Restraint – Under 21 - 42 CFR Part 483

Seclusion & Restraint Requirements (21 & older)

Following a review of the Federal guidelines CFR 482.13(e)(12), and the Michigan Mental Health Code (MHC): both the mental health code & CFR address actions that must be taken on behalf of recipients when there are situations requiring seclusion or restraint.

The federal guidelines are quite clear on exams after the start of the intervention to ensure the patient's safety (requiring them no matter how short the seclusion or restraint), the MHC has several conditions where they are not required. The mental health code is clear on who may write an order for seclusion or restraint.

- The Federal guidelines state a face-to-face examination within 1 hour of the initiation of the intervention is required on all seclusions and restraints, by a specifically trained physician, LIP, RN, or PA.
- The Michigan Mental Health Code 330.1740 states several conditions where a recipient may be restrained without a face-to-face from anyone:

1740 (3) & 1742 (4): For both seclusion & restraint (S&R), if the physician is called to approve an order and does not respond within 30 minutes, the (S&R) is ended.

Summary:

- The MHC only specifies a physician has to do a personal examination if seclusion is 1 hour or more, restraint is 2 hours or more (or up to 4...); and when re-authorizing continued use of seclusion or restraint one half hour before the order expires. However, it is the CMS guidelines that specifies a face to face within an hour of the start of EVERY seclusion/restraint intervention (not MHC); and it allows an RN to do a face to face on all other seclusion or restraint types -this does not conflict with the MHC for all seclusions and restraints, but supplements required evaluations for those outside the requirements of evaluations in 1740 and 1742. **Some LPHs require that a physician does the examination; but also have a policy in place for when a physician is not available**

MHC Citations in Summary:

330.1740 (4) If a physician **does not** observe the initial behavior that precipitated **restraint**, the physician can approve an order of up to 2 hours. If the physician is unable to physically observe the recipient within the 2 hours, they can approve the extension of the restraint for 2 more hours. The physician must physically observe the recipient at the 3½th hour to re-order the restraint. (*no face-to-face is required over the 4 hours).

330.1740 (5) If a physician **does** observe the initial behavior that precipitated **restraint**, the physician can write an order for up to 4 hours (MHC states 8/CMS states 4). 7243 (6) (b) The physician must physically observe the recipient at the

3½th hour to re-order the restraint.

330.1742 (5) If a physician **does not** observe the initial behavior that precipitated **seclusion**, the physician can approve an order of up to 1 hour. **If the physician is unable to physically observe the recipient within the 1 hour, seclusion must end (at the time of the personal examination or 1 hour, whichever is less)** (*no face-to-face is required for the hour).

330.1742 {6} states a recipient may be **secluded** after a physician **does** make a personal examination to determine if seclusion would pose an undue health risk; the physician can write an order for up to 4 hours {MHC states 8/CMS states 4}.

7243 (6) {b} The physician must physically observe the recipient at the 3½th hour to re-order the seclusion.

- The Administrative Rule 330.7243 does specify that a reauthorization or reordering at a restraint in accordance with items (S) in section 740 and 742 should include an exam by a physician, but this does not include situations in other item sections. This is the only item in the Michigan Mental Health Code that specifies a physician shall (must) personally exam a recipient in restraint or seclusion, after the initiation of the restraint or seclusion; and this only applies for reauthorization or reordering of an expiring restraint or seclusion that must be continued.

CMS, Federal, Conditions of Participation:

CFR 482.13{e}{12} states: When restraint or seclusion is used... the patient must be seen face-to-face within 1 hour after the initiation of the intervention by a physician or other licensed independent practitioner (LIP), or registered nurse {RN} or physician assistant (PA) who has been trained in accordance with the requirements specified in paragraph {f} of this section.

CMS State Operations Manual Interpretive Guidelines §482.13{e}{12}{i} states: When restraint or seclusion is used... a physician or other LIP, or a RN or PA trained in accordance with the requirements specified under §482.13(f), must see the patient face-to-face within 1-hour after the initiation of the intervention. This requirement also applies when a drug or medication is used as a restraint to manage violent or self-destructive behavior.

The 1-hour face-to-face patient evaluation must be conducted in person by a physician or other LIP, or trained RN or PA. A telephone call or telemedicine methodology is not permitted.

If a patient's violent or self-destructive behavior resolves and the restraint or

seclusion intervention is discontinued before the practitioner arrives to perform the 1-hour face-to-face evaluation, the practitioner is still required to see the patient face-to-face and conduct the evaluation within 1 hour after the initiation of this intervention. The fact that the patient's behavior warranted the use of a restraint or seclusion indicates a serious medical or psychological need for prompt evaluation of the patient behavior that led to the intervention. The evaluation would also determine whether there is a continued need for the intervention, factors that may have contributed to the violent or self-destructive behavior, and whether the intervention was appropriate to address the violent or self-destructive behavior.

Also, in accordance with section 14 of Sec. 482.123 If the face-to-face evaluation specified in paragraph (e)(12) of this section is conducted by a trained registered nurse or physician assistant, the trained registered nurse or physician assistant must consult the attending physician or other licensed independent practitioner who is responsible for the care of the patient as specified under Sec. 482.12(c) as soon as possible after the completion of the 1-hour face-to-face evaluation.

Michigan Mental Health Code:

330.1740 Physical restraint states:

{1) a resident shall not be placed in physical restraint except in the circumstances and under the conditions set forth in this section or in other law.

(2) A resident may be restrained only as provided in subsection (3), (4), **or** (S) after less restrictive interventions have been considered, and only if restraint is essential in order to prevent the resident from physically harming himself, herself, or others, or in order to prevent him or her from causing substantial property damage. Consideration of less restrictive measures shall be documented in the medical record. If restraint is essential in order to prevent the resident from physically harming himself, herself, or others, the resident may be physically

held with no more force than is necessary to limit the resident's movement, until a restraint may be applied.

(3) A resident may be temporarily restrained for a maximum of 30 minutes without an order or authorization in an emergency. Immediately after imposition of the temporary restraint, a physician shall be contacted. If, after being contacted, the physician does not order or authorize the restraint, the restraint shall be removed.

(4) A resident may be restrained prior to examination pursuant to an authorization by a physician. An authorized restraint may continue only until a physician can personally examine the resident or for 2 hours, whichever is less. If it is not possible for the physician to examine the resident within 2 hours, a physician may

Seclusion & Restraint Requirements (21 & older)

reauthorize the restraint for another 2 hours. Authorized restraint may not continue for more than 4 hours.

(5) A resident may be restrained pursuant to an order by a physician made after personal examination of the resident. An ordered restraint shall continue only for that period of time specified in the order or for 8 hours, whichever is less.

330.1742 Seclusion states:

(1) ...A resident placed in a hospital or center shall not be kept in seclusion except in the circumstances and under the conditions set forth in this section.

(3) A resident may be placed in seclusion only as provided under subsection (4), (5), **or** (6) and only if it is essential in order to prevent the resident from physically harming others, or in order to prevent the resident from causing substantial property damage.

(4) Seclusion may be temporarily employed for a maximum of 30 minutes in an emergency without an authorization or an order. Immediately after the resident is placed in temporary seclusion, a physician shall be contacted. If, after being contacted, the physician does not authorize or order the seclusion, the resident shall be removed from seclusion.

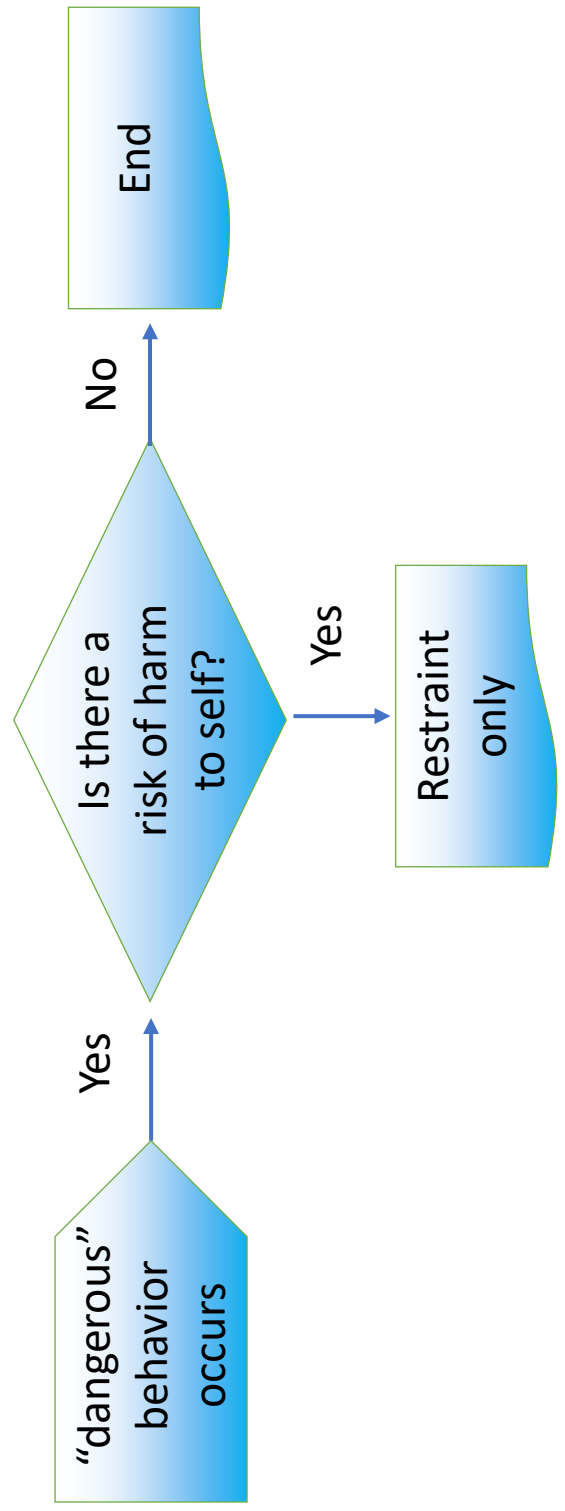
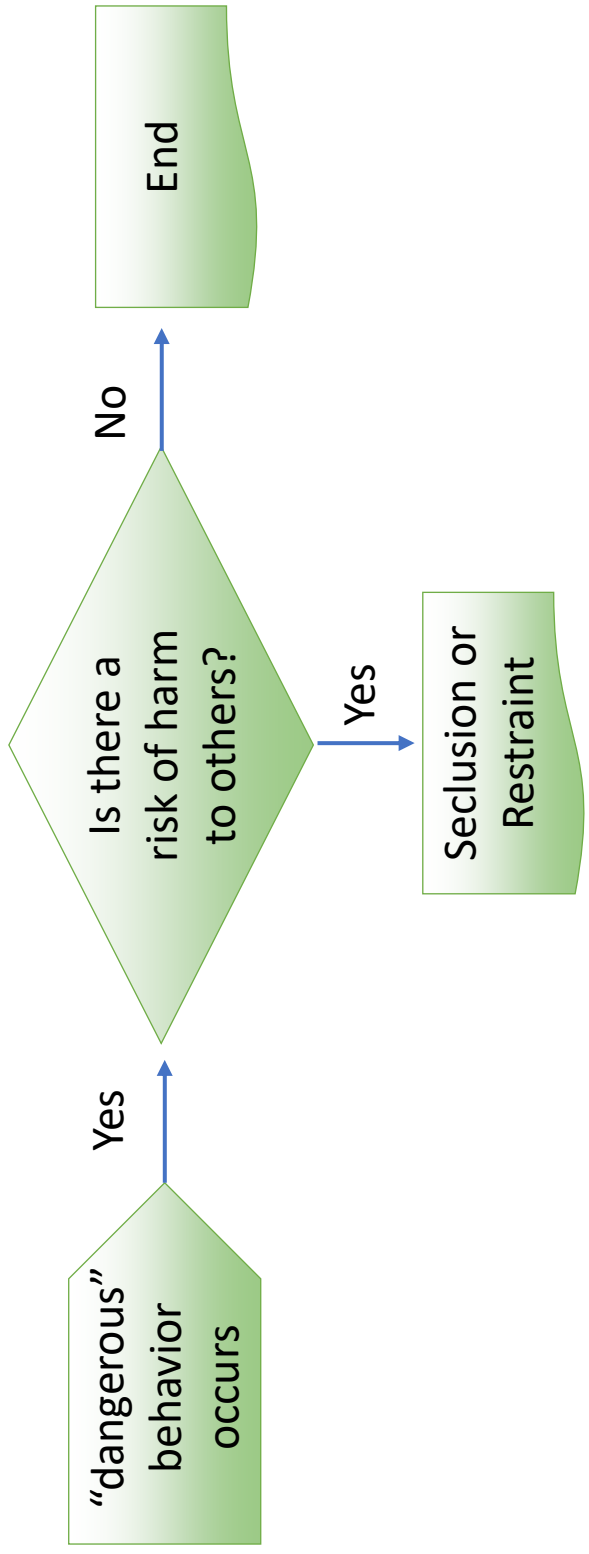
(5) A resident may be placed in seclusion under an authorization by a physician. Authorized seclusion shall continue only until a physician can personally examine the resident *or for 1 hour, whichever is less*.

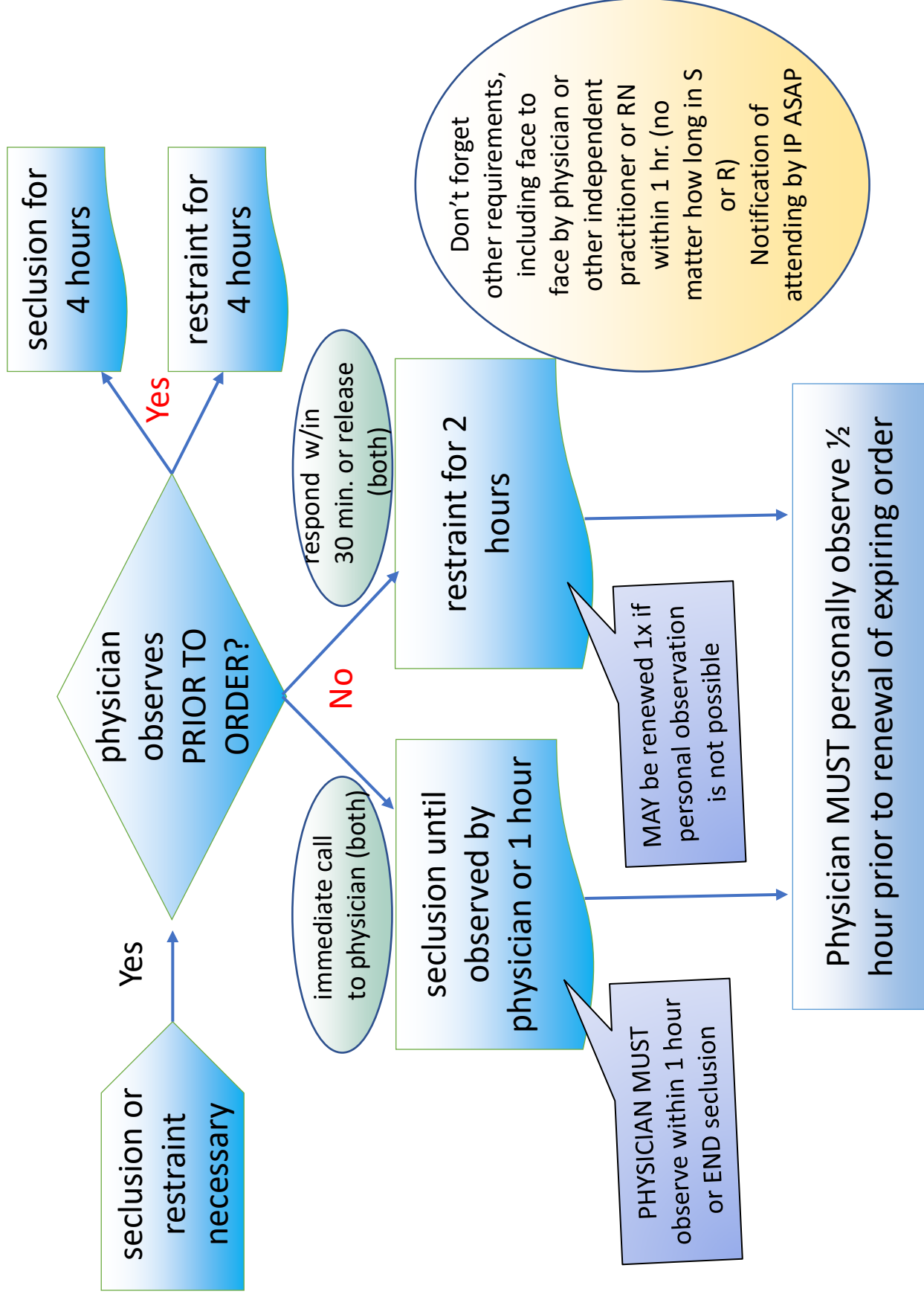
(6) A resident may be placed in seclusion under an order of a physician made after personal examination of the resident to determine if the ordered seclusion poses an undue health risk to the resident. Ordered seclusion shall continue only for that period of time specified in the order or for 8 hours, whichever is less. An order for a minor shall continue for a maximum of 4 hours.

AR 330.7243 Restraint seclusion, and physical management.

(6) If an order for restraint or seclusion is to expire and the continued use of restraint or seclusion is clinically indicated and must be extended, then a physician's reauthorization or reordering of restraint or seclusion shall comply with both of the following provisions:

(b) Except as specified in subdivision (a) of this subrule, a physician who orders or reorders restraint or seclusion shall do so in accordance with sections 740(5) and 742(5) of the act. The required examination by a physician shall be conducted not more than 30 minutes before the expiration of the expiring order for restraint or seclusion.





Adult recipient maximum timeframes – see code/CMS for Child/adolescent timeframes

TITLE 42--PUBLIC HEALTH

CHAPTER IV--CENTERS FOR MEDICARE & MEDICAID SERVICES,
DEPARTMENT OF HEALTH AND HUMAN SERVICES (CONTINUED)

PART 482_CONDITIONS OF PARTICIPATION FOR HOSPITALS

Subpart B_Administration

Sec. 482.13 Condition of participation: Patient's rights.

A hospital must protect and promote each patient's rights.

(a) Standard: Notice of rights. (1) A hospital must inform each patient, or when appropriate, the patient's representative (as allowed under State law), of the patient's rights, in advance of furnishing or discontinuing patient care whenever possible.

(2) The hospital must establish a process for prompt resolution of patient grievances and must inform each patient whom to contact to file a grievance. The hospital's governing body must approve and be responsible for the effective operation of the grievance process and must review and resolve grievances, unless it delegates the responsibility in writing to a grievance committee. The grievance process must include a mechanism for timely referral of patient concerns regarding quality of care or premature discharge to the appropriate Utilization and Quality Control Quality Improvement Organization. At a minimum:

(i) The hospital must establish a clearly explained procedure for the submission of a patient's written or verbal grievance to the hospital.

(ii) The grievance process must specify time frames for review of the grievance and the provision of a response.

(iii) In its resolution of the grievance, the hospital must provide the patient with written notice of its decision that contains the name of the hospital contact person, the steps taken on behalf of the patient to investigate the grievance, the results of the grievance process, and the date of completion.

(b) Standard: Exercise of rights. (1) The patient has the right to participate in the development and implementation of his or her plan of care.

(2) The patient or his or her representative (as allowed under State law) has the right to make informed decisions regarding his or her care.

The patient's rights include being informed of his or her health status, being involved in care planning and treatment, and being able to request or refuse treatment. This right must not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate.

(3) The patient has the right to formulate advance directives and to have hospital staff and practitioners who provide care in the hospital comply with these directives, in accordance with Sec. 489.100 of this part (Definition), Sec. 489.102 of this part (Requirements for providers), and Sec. 489.104 of this part (Effective dates).

(4) The patient has the right to have a family member or representative of his or her choice and his or her own physician notified promptly of his or her admission to the hospital.

(c) Standard: Privacy and safety. (1) The patient has the right to personal privacy.

(2) The patient has the right to receive care in a safe setting.

(3) The patient has the right to be free from all forms of abuse or harassment.

(d) Standard: Confidentiality of patient records. (1) The patient has the right to the confidentiality of his or her clinical records.

(2) The patient has the right to access information contained in his or her clinical records within a reasonable time frame. The hospital must not frustrate the legitimate efforts of individuals to gain access to their own medical records and must actively seek to meet these requests as quickly as its record keeping system permits.

(e) **Standard: Restraint or seclusion.** All patients have the right to be free from physical or mental abuse, and corporal punishment. All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. Restraint or seclusion may only be imposed to ensure the immediate physical safety of the patient, a staff member, or others and must be discontinued at the earliest possible time.

(1) Definitions. (i) A restraint is--

(A) Any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely; or

(B) A drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition.

(C) A restraint does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests, or to protect the patient from falling out of bed, or to permit the patient to participate in activities without the risk of physical harm (this does not include a physical escort).

(ii) Seclusion is the involuntary confinement of a patient alone in a room or area from which the patient is physically prevented from leaving. Seclusion may only be used for the management of violent or self-destructive behavior.

(2) Restraint or seclusion may only be used when less restrictive interventions have been determined to be ineffective to protect the patient a staff member or others from harm.

(3) The type or technique of restraint or seclusion used must be the least restrictive intervention that will be effective to protect the patient, a staff member, or others from harm.

(4) The use of restraint or seclusion must be--

(i) In accordance with a written modification to the patient's plan of care; and

(ii) Implemented in accordance with safe and appropriate restraint and seclusion techniques as determined by hospital policy in accordance with State law.

(5) The use of restraint or seclusion must be in accordance with the order of a physician or other licensed independent practitioner who is responsible for the care of the patient as specified under Sec. 482.12(c) and authorized to order restraint or seclusion by hospital policy in accordance with State law.

(6) Orders for the use of restraint or seclusion must never be written as a standing order or on an as needed basis (PRN).

(7) The attending physician must be consulted as soon as possible if the attending physician did not order the restraint or seclusion.

(8) Unless superseded by State law that is more restrictive--

(i) Each order for restraint or seclusion used for the management of violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others may only be renewed in accordance with the following limits for up to a total of 24 hours:

(A) 4 hours for adults 18 years of age or older;

(B) 2 hours for children and adolescents 9 to 17 years of age; or

(C) 1 hour for children under 9 years of age; and

(ii) After 24 hours, before writing a new order for the use of restraint or seclusion for the management of violent or self-destructive behavior, a physician or other licensed independent practitioner who is responsible for the care of the patient as specified under Sec. 482.12(c) of this part and authorized to order restraint or seclusion by hospital policy in accordance with State law must see and assess the patient.

(iii) Each order for restraint used to ensure the physical safety of the non-violent or non-self-destructive patient may be renewed as authorized by hospital policy.

(9) Restraint or seclusion must be discontinued at the earliest possible time, regardless of the length of time identified in the order.

(10) The condition of the patient who is restrained or secluded must be monitored by a physician, other licensed independent practitioner or trained staff that have completed the training criteria specified in paragraph (f) of this section at an interval determined by hospital policy.

(11) Physician and other licensed independent practitioner training requirements must be specified in hospital policy. At a minimum, physicians and other licensed independent practitioners authorized to order restraint or seclusion by hospital policy in accordance with State law must have a working knowledge of hospital policy regarding the use of restraint or seclusion.

(12) When restraint or seclusion is used for the management of violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others, the patient must be seen face-to-face within 1 hour after the initiation of the intervention--

(i) By a--

(A) Physician or other licensed independent practitioner; or

(B) Registered nurse or physician assistant who has been trained in accordance with the requirements specified in paragraph (f) of this section.

(ii) To evaluate--

(A) The patient's immediate situation;

(B) The patient's reaction to the intervention;

(C) The patient's medical and behavioral condition; and

(D) The need to continue or terminate the restraint or seclusion.

(13) States are free to have requirements by statute or regulation that are more restrictive than those contained in paragraph (e)(12)(i) of this section.

(14) If the face-to-face evaluation specified in paragraph (e)(12) of this section is conducted by a trained registered nurse or physician assistant, the trained registered nurse or physician assistant must consult the attending physician or other licensed independent practitioner who is responsible for the care of the patient as specified under Sec. 482.12(c) as soon as possible after the completion of the 1-hour face-to-face evaluation.

(15) All requirements specified under this paragraph are applicable to the simultaneous use of restraint and seclusion. Simultaneous restraint and seclusion use is only permitted if the patient is continually monitored--

- (i) Face-to-face by an assigned, trained staff member; or
- (ii) By trained staff using both video and audio equipment. This monitoring must be in close proximity to the patient.

(16) When restraint or seclusion is used, there must be documentation in the patient's medical record of the following:

- (i) The 1-hour face-to-face medical and behavioral evaluation if restraint or seclusion is used to manage violent or self-destructive behavior;
- (ii) A description of the patient's behavior and the intervention used;
- (iii) Alternatives or other less restrictive interventions attempted (as applicable);
- (iv) The patient's condition or symptom(s) that warranted the use of the restraint or seclusion; and
- (v) The patient's response to the intervention(s) used, including the rationale for continued use of the intervention.

(f) Standard: Restraint or seclusion: Staff training requirements.

The patient has the right to safe implementation of restraint or seclusion by trained staff.

(1) Training intervals. Staff must be trained and able to demonstrate competency in the application of restraints, implementation of seclusion, monitoring, assessment, and providing care for a patient in restraint or seclusion--

- (i) Before performing any of the actions specified in this paragraph;
- (ii) As part of orientation; and
- (iii) Subsequently on a periodic basis consistent with hospital policy.

(2) Training content. The hospital must require appropriate staff to have education, training, and demonstrated knowledge based on the specific needs of the patient population in at least the following:

- (i) Techniques to identify staff and patient behaviors, events, and environmental factors that may trigger circumstances that require the use of a restraint or seclusion.
- (ii) The use of nonphysical intervention skills.
- (iii) Choosing the least restrictive intervention based on an individualized assessment of the patient's medical, or behavioral status or condition.

(iv) The safe application and use of all types of restraint or seclusion used in the hospital, including training in how to recognize and respond to signs of physical and psychological distress (for example, positional asphyxia);

(v) Clinical identification of specific behavioral changes that indicate that restraint or seclusion is no longer necessary.

(vi) Monitoring the physical and psychological well-being of the patient who is restrained or secluded, including but not limited to, respiratory and circulatory status, skin integrity, vital signs, and any special requirements specified by hospital policy associated with the 1-hour face-to-face evaluation.

(vii) The use of first aid techniques and certification in the use of cardiopulmonary resuscitation, including required periodic recertification.

(3) Trainer requirements. Individuals providing staff training must be qualified as evidenced by education, training, and experience in techniques used to address patients' behaviors.

(4) Training documentation. The hospital must document in the staff personnel records that the training and demonstration of competency were successfully completed.

(g) Standard: Death reporting requirements: Hospitals must report deaths associated with the use of seclusion or restraint.

(1) The hospital must report the following information to CMS:

(i) Each death that occurs while a patient is in restraint or seclusion.

(ii) Each death that occurs within 24 hours after the patient has been removed from restraint or seclusion.

(iii) Each death known to the hospital that occurs within 1 week after restraint or seclusion where it is reasonable to assume that use of restraint or placement in seclusion contributed directly or indirectly to a patient's death. "Reasonable to assume" in this context includes, but is not limited to, deaths related to restrictions of movement for prolonged periods of time, or death related to chest compression, restriction of breathing or asphyxiation.

(2) Each death referenced in this paragraph must be reported to CMS by telephone no later than the close of business the next business day following knowledge of the patient's death.

(3) Staff must document in the patient's medical record the date and time the death was reported to CMS.

[71 FR 71426, Dec. 8, 2006]

TITLE 42--PUBLIC HEALTH

CHAPTER IV--CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND HUMAN SERVICES--(Continued)

PART 483--REQUIREMENTS FOR STATES AND LONG TERM CARE FACILITIES--Table of Contents

Subpart G--Condition of Participation for the Use of Restraint or **Seclusion** in Psychiatric Residential Treatment Facilities Providing Inpatient Psychiatric Services for Individuals Under Age 21

Source: 66 FR 7161, Jan. 22, 2001, unless otherwise noted.

Sec. 483.350 Basis and scope.

(a) Statutory basis. Sections 1905(a)(16) and (h) of the Act provide that inpatient psychiatric services for individuals under age 21 include only inpatient services that are provided in an institution (or distinct part thereof) that is a psychiatric hospital as defined in section 1861(f) of the Act or in another inpatient setting that the Secretary has specified in regulations. Additionally, the Children's Health Act of 2000 (Pub. L. 106-310) imposes procedural reporting and training requirements regarding the use of restraints and involuntary **seclusion** in facilities, specifically including facilities that provide inpatient psychiatric services for children under the age of 21 as defined by sections 1905(a)(16) and (h) of the Act.

(b) Scope. This subpart imposes requirements regarding the use of restraint or **seclusion** in psychiatric residential treatment facilities, that are not hospitals, providing inpatient psychiatric services to individuals under age 21.

Sec. 483.352 Definitions.

For purposes of this subpart, the following definitions apply:

Drug used as a restraint means any drug that--

(1) Is administered to manage a resident's behavior in a way that reduces the safety risk to the resident or others;

(2) Has the temporary effect of restricting the resident's freedom of movement; and

(3) Is not a standard treatment for the resident's medical or psychiatric condition.

Emergency safety intervention means the use of restraint or **seclusion** as an immediate response to an emergency safety situation.

Emergency safety situation means unanticipated resident behavior that places the resident or others at serious threat of violence or injury if no intervention occurs and that calls for an emergency safety intervention as defined in this section.

Mechanical restraint means any device attached or adjacent to the resident's body that he or she cannot easily remove that restricts freedom of movement or normal access to his or her body.

Minor means a minor as defined under State law and, for the purpose of this subpart, includes a resident who has been declared legally incompetent by the applicable State court.

Personal restraint means the application of physical force without the use of any device, for the purposes of restraining the free movement of a resident's body. The term personal restraint does not include briefly holding without undue force a resident in order to calm or comfort him or her, or holding a resident's hand to safely escort a resident from one area to another.

Psychiatric Residential Treatment Facility means a facility other than a hospital, that provides psychiatric services, as described in subpart D of part 441 of this chapter, to individuals under age 21, in an inpatient setting.

Restraint means a "personal restraint", "mechanical restraint", or "drug used as a restraint" as defined in this section.

Seclusion means the involuntary confinement of a resident alone in a room or an area from which the resident is physically prevented from leaving.

Serious injury means any significant impairment of the physical condition of the resident as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hematoma, and injuries to internal organs, whether self-inflicted or inflicted by someone else.

Staff means those individuals with responsibility for managing a resident's health or participating in an emergency safety intervention and who are employed by the facility on a full-time, part-time, or contract basis.

Time out means the restriction of a resident for a period of time to a designated area from which the resident is not physically prevented from leaving, for the purpose of providing the resident an opportunity to regain self-control.

[66 FR 7161, Jan. 22, 2001, as amended at 66 FR 28116, May 22, 2001]

Sec. 483.354 General requirements for psychiatric residential treatment facilities.

A psychiatric residential treatment facility must meet the requirements in Sec. 441.151 through Sec. 441.182 of this chapter.

Sec. 483.356 Protection of residents.

(a) Restraint and **seclusion** policy for the protection of residents.

(1) Each resident has the right to be free from restraint or **seclusion**, of any form, used as a means of coercion, discipline, convenience, or retaliation.

(2) An order for restraint or **seclusion** must not be written as a standing order or on an as-needed basis.

(3) Restraint or **seclusion** must not result in harm or injury to the resident and must be used only--

(i) To ensure the safety of the resident or others during an emergency safety situation; and

(ii) Until the emergency safety situation has ceased and the resident's safety and the safety of others can be ensured, even if the restraint or **seclusion** order has not expired.

(4) Restraint and **seclusion** must not be used simultaneously.

(b) Emergency safety intervention. An emergency safety intervention must be performed in a manner that is safe, proportionate, and appropriate to the severity of the behavior, and the resident's chronological and developmental age; size; gender; physical, medical, and psychiatric condition; and personal history (including any history of physical or sexual abuse).

(c) Notification of facility policy. At admission, the facility must--

(1) Inform both the incoming resident and, in the case of a minor, the resident's parent(s) or legal guardian(s) of the facility's policy regarding the use of restraint or **seclusion** during an emergency safety situation that may occur while the resident is in the program;

(2) Communicate its restraint and **seclusion** policy in a language that the resident, or his or her parent(s) or legal guardian(s) understands (including American Sign Language, if appropriate) and when necessary, the facility must provide interpreters or translators;

(3) Obtain an acknowledgment, in writing, from the resident, or in the case of a minor, from the parent(s) or legal guardian(s) that he or she has been informed of the facility's policy on the use of restraint or **seclusion** during an emergency safety situation. Staff must file this acknowledgment in the resident's record; and

(4) Provide a copy of the facility policy to the resident and in the case of a minor, to the resident's parent(s) or legal guardian(s).

(d) Contact information. The facility's policy must provide contact information, including the phone number and mailing address, for the appropriate State Protection and Advocacy organization.

Sec. 483.358 Orders for the use of restraint or **seclusion**.

(a) Orders for restraint or **seclusion** must be by a physician, or other licensed practitioner permitted by the State and the facility to order restraint or **seclusion** and trained in the use of emergency safety interventions. Federal regulations at 42 CFR 441.151 require that inpatient psychiatric services for recipients under age 21 be provided under the direction of a physician.

(b) If the resident's treatment team physician is available, only he or she can order restraint or **seclusion**.

(c) A physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion** must order the least restrictive emergency safety intervention that is most likely to be effective in resolving the emergency safety situation based on consultation with staff.

(d) If the order for restraint or **seclusion** is verbal, the verbal order must be received by a registered nurse or other licensed staff such as a licensed practical nurse, while the emergency safety intervention is being initiated by staff or immediately after the emergency safety situation ends. The physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion** must verify the verbal order in a signed written form in the resident's record. The physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion** must be available to staff for consultation, at least by telephone, throughout the period of the emergency safety intervention.

(e) Each order for restraint or **seclusion** must:

(1) Be limited to no longer than the duration of the emergency safety situation; and

(2) Under no circumstances exceed 4 hours for residents ages 18 to 21; 2 hours for residents ages 9 to 17; or 1 hour for residents under age 9.

(f) Within 1 hour of the initiation of the emergency safety intervention a physician, or other licensed practitioner trained in the use of emergency safety interventions and permitted by the state and the facility to assess the physical and psychological well being of residents, must conduct a face-to-face assessment of the physical and psychological well being of the resident, including but not limited to--

- (1) The resident's physical and psychological status;
- (2) The resident's behavior;
- (3) The appropriateness of the intervention measures; and
- (4) Any complications resulting from the intervention.

(g) Each order for restraint or **seclusion** must include--

(1) The name of the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion**;

(2) The date and time the order was obtained; and

(3) The emergency safety intervention ordered, including the length of time for which the physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion** authorized its use.

(h) Staff must document the intervention in the resident's record. That documentation must be completed by the end of the shift in which the intervention occurs. If the intervention does not end during the shift in which it began, documentation must be completed during the shift in which it ends. Documentation must include all of the following:

(1) Each order for restraint or **seclusion** as required in paragraph (g) of this section.

(2) The time the emergency safety intervention actually began and ended.

(3) The time and results of the 1-hour assessment required in paragraph (f) of this section.

(4) The emergency safety situation that required the resident to be restrained or put in **seclusion**.

(5) The name of staff involved in the emergency safety intervention.

(i) The facility must maintain a record of each emergency safety situation, the interventions used, and their outcomes.

(j) The physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion** must sign the restraint or **seclusion** order in the resident's record as soon as possible.

[66 FR 7161, Jan. 22, 2001, as amended at 66 FR 28116, May 22, 2001]

Sec. 483.360 Consultation with treatment team physician.

If a physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion** orders the use of restraint or **seclusion**, that person must contact the resident's

treatment team physician, unless the ordering physician is in fact the resident's treatment team physician. The person ordering the use of restraint or **seclusion** must--

(a) Consult with the resident's treatment team physician as soon as possible and inform the team physician of the emergency safety situation that required the resident to be restrained or placed in **seclusion**; and

(b) Document in the resident's record the date and time the team physician was consulted.

[66 FR 7161, Jan. 22, 2001, as amended at 66 FR 28117, May 22, 2001]

Sec. 483.362 Monitoring of the resident in and immediately after restraint.

(a) Clinical staff trained in the use of emergency safety interventions must be physically present, continually assessing and monitoring the physical and psychological well-being of the

resident and the safe use of restraint throughout the duration of the emergency safety intervention.

(b) If the emergency safety situation continues beyond the time limit of the order for the use of restraint, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion** to receive further instructions.

(c) A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the restraint is removed.

[66 FR 7161, Jan. 22, 2001, as amended at 66 FR 28117, May 22, 2001]

Sec. 483.364 Monitoring of the resident in and immediately after **seclusion**.

(a) Clinical staff, trained in the use of emergency safety interventions, must be physically present in or immediately outside the **seclusion** room, continually assessing, monitoring, and evaluating the physical and psychological well-being of the resident in **seclusion**. Video monitoring does not meet this requirement.

(b) A room used for **seclusion** must—

(1) Allow staff full view of the resident in all areas of the room;

and

(2) Be free of potentially hazardous conditions such as unprotected light fixtures and electrical outlets.

(c) If the emergency safety situation continues beyond the time limit of the order for the use of **seclusion**, a registered nurse or other licensed staff, such as a licensed practical nurse, must immediately contact the ordering physician or other licensed practitioner permitted by the state and the facility to order restraint or **seclusion** to receive further instructions.

(d) A physician, or other licensed practitioner permitted by the state and the facility to evaluate the resident's well-being and trained in the use of emergency safety interventions, must evaluate the resident's well-being immediately after the resident is removed from **seclusion**.

[66 FR 7161, Jan. 22, 2001, as amended at 66 FR 28117, May 22, 2001]

Sec. 483.366 Notification of parent(s) or legal guardian(s).

If the resident is a minor as defined in this subpart:

(a) The facility must notify the parent(s) or legal guardian(s) of the resident who has been restrained or placed in **seclusion** as soon as possible after the initiation of each emergency safety intervention.

(b) The facility must document in the resident's record that the parent(s) or legal guardian(s) has been notified of the emergency safety intervention, including the date and time of notification and the name of the staff person providing the notification.

Sec. 483.368 Application of time out.

- (a) A resident in time out must never be physically prevented from leaving the time out area.
- (b) Time out may take place away from the area of activity or from other residents, such as in the resident's room (exclusionary), or in the area of activity or other residents (inclusionary).
- (c) Staff must monitor the resident while he or she is in time out.

Sec. 483.370 Postintervention debriefings.

(a) Within 24 hours after the use of restraint or **seclusion**, staff involved in an emergency safety intervention and the resident must have a face-to-face discussion. This discussion must include all staff involved in the intervention except when the presence of a particular staff person may jeopardize the well-being of the resident. Other staff and the resident's parent(s) or legal guardian(s) may participate in the discussion when it is deemed appropriate by the facility. The facility must conduct such discussion in a language that is understood by the resident's parent(s) or legal guardian(s). The discussion must provide both the resident and staff the opportunity to discuss the circumstances resulting in the use of restraint or **seclusion** and strategies to be used by the staff, the resident, or others that could prevent the future use of restraint or **seclusion**.

(b) Within 24 hours after the use of restraint or **seclusion**, all staff involved in the emergency safety intervention, and appropriate supervisory and administrative staff, must conduct a debriefing session that includes, at a minimum, a review and discussion of--

(1) The emergency safety situation that required the intervention, including a discussion of the precipitating factors that led up to the intervention;

(2) Alternative techniques that might have prevented the use of the restraint or **seclusion**;

(3) The procedures, if any, that staff are to implement to prevent any recurrence of the use of restraint or **seclusion**; and

(4) The outcome of the intervention, including any injuries that may have resulted from the use of restraint or **seclusion**.

(c) Staff must document in the resident's record that both debriefing sessions took place and must include in that documentation the names of staff who were present for the debriefing, names of staff that were excused from the debriefing, and any changes to the resident's treatment plan that result from the debriefings.

Sec. 483.372 Medical treatment for injuries resulting from an emergency safety intervention.

(a) Staff must immediately obtain medical treatment from qualified medical personnel for a resident injured as a result of an emergency safety intervention.

(b) The psychiatric residential treatment facility must have affiliations or written transfer agreements in effect with one or more hospitals approved for participation under the Medicaid program that reasonably ensure that--

(1) A resident will be transferred from the facility to a hospital and admitted in a timely manner when a transfer is medically necessary for medical care or acute psychiatric care;

(2) Medical and other information needed for care of the resident in light of such a transfer, will be exchanged between the institutions in accordance with State medical privacy law,

including any information needed to determine whether the appropriate care can be provided in a less restrictive setting; and

(3) Services are available to each resident 24 hours a day, 7 days a week.

(c) Staff must document in the resident's record, all injuries that occur as a result of an emergency safety intervention, including injuries to staff resulting from that intervention.

(d) Staff involved in an emergency safety intervention that results in an injury to a resident or staff must meet with supervisory staff and evaluate the circumstances that caused the injury and develop a plan to prevent future injuries.

Sec. 483.374 Facility reporting.

(a) Attestation of facility compliance. Each psychiatric residential treatment facility that provides inpatient psychiatric services to individuals under age 21 must attest, in writing, that the facility is in compliance with CMS's standards governing the use of restraint and **seclusion**. This attestation must be signed by the facility director.

(1) A facility with a current provider agreement with the Medicaid agency must provide its attestation to the State Medicaid agency by July 21, 2001.

(2) A facility enrolling as a Medicaid provider must meet this requirement at the time it executes a provider agreement with the Medicaid agency.

(b) Reporting of serious occurrences. The facility must report each serious occurrence to both the State Medicaid agency and, unless prohibited by State law, the State-designated Protection and Advocacy system. Serious occurrences that must be reported include a resident's death, a serious injury to a resident as defined in Sec. 483.352 of this part, and a resident's suicide attempt.

(1) Staff must report any serious occurrence involving a resident to both the State Medicaid agency and the State-designated Protection and Advocacy system by no later than close of business the next business day after a serious occurrence. The report must include the name of the resident involved in the serious occurrence, a description of the occurrence, and the name, street address, and telephone number of the facility.

(2) In the case of a minor, the facility must notify the resident's parent(s) or legal guardian(s) as soon as possible, and in no case later than 24 hours after the serious occurrence.

(3) Staff must document in the resident's record that the serious occurrence was reported to both the State Medicaid agency and the State-designated Protection and Advocacy system, including the name of the person to whom the incident was reported. A copy of the report must be maintained in the resident's record, as well as in the incident and accident report logs kept by the facility.

(c) Reporting of deaths. In addition to the reporting requirements contained in paragraph (b) of this section, facilities must report the death of any resident to the Centers for Medicare & Medicaid Services (CMS) regional office.

(1) Staff must report the death of any resident to the CMS regional office by no later than close of business the next business day after the resident's death.

(2) Staff must document in the resident's record that the death was reported to the CMS regional office.

[66 FR 7161, Jan. 22, 2001, as amended at 66 FR 28117, May 22, 2001]

Sec. 483.376 Education and training.

(a) The facility must require staff to have ongoing education, training, and demonstrated knowledge of--

(1) Techniques to identify staff and resident behaviors, events, and environmental factors that may trigger emergency safety situations;

(2) The use of nonphysical intervention skills, such as de-escalation, mediation conflict resolution, active listening, and verbal and observational methods, to prevent emergency safety situations; and

(3) The safe use of restraint and the safe use of **seclusion**, including the ability to recognize and respond to signs of physical distress in residents who are restrained or in **seclusion**.

(b) Certification in the use of cardiopulmonary resuscitation, including periodic recertification, is required.

(c) Individuals who are qualified by education, training, and experience must provide staff training.

(d) Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques they have learned for managing emergency safety situations.

(e) Staff must be trained and demonstrate competency before participating in an emergency safety intervention.

(f) Staff must demonstrate their competencies as specified in paragraph (a) of this section on a semiannual basis and their competencies as specified in paragraph (b) of this section on an annual basis.

(g) The facility must document in the staff personnel records that the training and demonstration of competency were successfully completed. Documentation must include the date training was completed and the name of persons certifying the completion of training.

(h) All training programs and materials used by the facility must be available for review by CMS, the State Medicaid agency, and the State survey agency.

[Code of Federal Regulations]

[Title 42, Volume 3]

[Revised as of October 1, 2002]

From the U.S. Government Printing Office via GPO Access

[CITE: 42CFR483]