

# Restrictive Practices in Aged Care

Sometimes restrictive practices may be used on an individual in aged care, including a person near the end of life, to control the way they are acting. Restrictive practices **significantly impact an individual's rights, dignity and liberty**.<sup>1</sup> They **can only be used as a last resort**, and **only if lawful consent is given**.

This area of law is very complex and differs across jurisdictions. This factsheet provides a general overview of the requirements for consent to restrictive practices in aged care.

## What are restrictive practices?

Restrictive practices are interventions that restrict the rights or freedom of movement of an individual. They are used to control or influence the individual's behaviour. There are five main types of restrictive practices in aged care.<sup>2,3</sup>

Type of practice	What it involves	Example in aged care
<b>Chemical restraint</b>	Using medication or another chemical substance to influence an individual's behaviour (not to treat a physical illness or condition, or a mental disorder)	Giving psychotropic medication to an aged care resident with dementia to control agitation or aggression
<b>Environmental restraint</b>	Restricting an individual's free access to all parts of their environment (including activities and items, but not medication or another individual's room) <sup>4</sup>	Restricting access to the outside to prevent the individual leaving the residential care home Locking up sharp objects, activities, a room or area, or items
<b>Mechanical restraint</b>	Using a device to restrict, prevent or subdue an individual's movement	Using bed rails to prevent falls, restrictive clothing, harnesses or straps to restrain the individual
<b>Physical restraint</b>	Using physical force to prevent, restrict or subdue movement of the individual, or part of their body	Holding an individual down to administer medication, using security personnel to restrain or block an individual from a room
<b>Seclusion</b>	Solitary confinement of an individual in a room or physical space and preventing their exit	Locking an individual in their room or other area <sup>5</sup>

## When can restrictive practices be used?

In residential aged care, **restrictive practices must:**

- » **only be used with consent, as a last resort to prevent harm to the individual or others**, and
- » be **proportionate to the risk of harm**, in the **least restrictive form**, and for the **shortest time** required.<sup>1</sup>

Providers must also:

- » First try best practice alternative strategies and document these (in the individual's behaviour support plan)
- » Consider the likely impact of the practice on the individual, if used
- » Comply with the individual's behaviour support plan
- » Ensure the practice meets the requirements of State or Territory law and complies with the Aged Care Quality Standards and the Charter of Aged Care Rights.

There are **further requirements that must be followed**, depending on the type of restrictive practice to be used. These are in **Appendix A** (page 5).

## Who can consent to restrictive practices?

Restrictive practices cannot be used without first obtaining consent. The only exception is in an emergency.

### Before 1 July 2025

In residential care, consent may only be given by:

- » the **individual (if they have capacity)**, or
- » if the individual has impaired capacity, a **restrictive practices substitute decision-maker. This is a person or body that has been appointed under State or Territory law to consent to restrictive practices.**

The laws on consent in the State or Territory where the individual is receiving care apply.<sup>2</sup>

## Where there is no restrictive practices substitute decision-maker

If there is no restrictive practices substitute decision-maker, and either:

- » there is no way to appoint a decision-maker under State or Territory law, or
- » an application to appoint a decision-maker has been made but is delayed,

one of these people may be the restrictive practice decision-maker (in order of priority), so long as they have capacity to consent and have agreed in writing to be the decision-maker:

- » a restrictive practices nominee. This is someone the individual has nominated to consent if they do not have capacity.
- » the individual's partner (so long as they have a close and continuing relationship).
- » the individual's relative\* or friend who:
  - was their unpaid carer immediately before the individual entered aged care, and
  - has a personal interest in the individual's welfare, and
  - has a close and continuing relationship with the individual.
- » another relative\* or friend of the individual who has:
  - a personal interest in the individual's welfare, and
  - a close and continuing relationship with the individual.

If no one above can be the decision-maker, a person or body appointed under State or Territory law to consent to medical treatment for the individual may approve use of the restrictive practice e.g. a guardian.

If you are uncertain about who can provide consent to restrictive practices, contact your State or Territory's health department and Office of the Public Advocate/Public Guardian for assistance (see contact details at the end of this factsheet).

\*If there are two or more relatives or friends, the eldest will be the restrictive practices decision-maker.

## After 1 July 2025

The *Aged Care Act 2024* (Cth), commencing on 1 July 2025, will regulate use of restrictive practices in aged care, and the process for obtaining consent. The *Quality of Care Principles 2014* (Cth), which have been extended until 1 December 2026, may also apply.

This factsheet will be updated before July 2025 with more detail on the new laws.

## What if consent is not obtained?

A provider and anyone else who uses (or helps to use) a restrictive practice without consent, or in a way that does not meet the requirements for restrictive practices, **may be liable in civil or criminal law**. Non-compliance with the requirements may also be a reportable incident (discussed further below).

An exception is where restrictive practices are necessary in an emergency. In that situation, there is no requirement to obtain consent, and some other requirements do not apply. If the individual did not have capacity to consent, the provider must inform the restrictive practices substitute decision-maker that the practice was used and document its use in the individual's behaviour support plan.

## What other responsibilities do aged care providers have?

When restrictive practices are used, aged care providers must monitor the individual for signs of distress or harm; side effects and adverse events; and changes in mood, behaviour, wellbeing, and ability to function independently or engage in activities of daily living.

They must also regularly monitor and review if using the restrictive practice is necessary, and its effectiveness. If chemical restraint is used, information about its use and effect must be given to the practitioner who prescribed the medication.

## What if I have concerns about use of restrictive practices?

Inappropriate use of restrictive practices is a reportable incident that must be reported by an aged care provider to the Aged Care Quality and Safety Commission.<sup>6</sup>

For examples of inappropriate use of restrictive practices, [read this factsheet](#). More serious incidents may lead to the Commission requiring an external investigation<sup>7</sup>, and possible civil or criminal liability.

If you have concerns about restrictive practices being used inappropriately or without consent, contact the [Aged Care Quality and Safety Commission](#), or the Office of the Public Guardian/ Public Advocate in your State or Territory.

## Where can I get more information?

If you work in aged care, ask your manager for information about restrictive practices.

Other useful information:

### Aged Care Quality and Safety Commission

- » [Restrictive practices provider resources](#)
- » [Restrictive practices scenarios](#)
- » [Six steps for safe prescribing of antipsychotics and benzodiazepines in residential aged care](#)

### Australian Department of Health and Aged Care

- » [Restrictive practices in aged care – a last resort](#)
- » [Consent for restrictive practices – FAQs](#)

### Queensland

- » [Interim consent arrangements for restrictive practices in aged care](#)

### Australian Capital Territory

- » [Understand restrictive practices](#)

### Victoria

- » [Substitute decision making and restrictive practices in aged care](#)

### New South Wales

- » [Restrictive practices and guardianship](#)

### Offices of the Public Advocate and Public Guardian

- » [Office of the Public Guardian Northern Territory](#)
- » [Office of the Public Advocate South Australia](#)
- » [Office of the Public Guardian Tasmania](#)
- » [Office of the Public Advocate Western Australia](#)

## References

1. Royal Commission into Aged Care Quality and Safety. [Final Report: Care, Dignity and Respect – Volume 1: Summary and Recommendations](#). Royal Commission into Aged Care Quality and Safety, 2021.
2. Department of Health and Aged Care. [Restrictive practices in aged care – a last resort](#). 2024.
3. NDIS Quality and Safeguards Commission. [Regulated Restrictive Practices Guide](#). Penrith: NDIS, 2020.
4. Aged Care Quality and Safety Commission. [Overview of restrictive practices](#). Australian Government.
5. Department of Health and Aged Care. [Restrictive Practice use in aged care](#). Australian Government, 2022.
6. Aged Care Quality and Safety Commission. [Reportable incidents: inappropriate use of restrictive practices](#). Australian Government, 2022.
7. Aged Care Quality and Safety Commission. [Effective serious incident investigations: guidance for providers](#). Australian Government, 2022.

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## Appendix A: Additional requirements for use of restrictive practices

Type of practice	Additional requirements
<b>Chemical restraint</b>	<ul style="list-style-type: none"> <li>» The approved provider must be satisfied that a medical practitioner or nurse practitioner has:               <ul style="list-style-type: none"> <li>- assessed the individual as posing a risk of harm to themselves or others</li> <li>- assessed whether using the restrictive practice is necessary</li> <li>- prescribed medication for use as a chemical restraint</li> <li>- obtained* informed consent to the prescribing of the medication for the chemical restraint.</li> </ul> </li> <li>» Document* the following in the individual’s behaviour support plan:               <ul style="list-style-type: none"> <li>- the assessments</li> <li>- the practitioner’s decision to use the chemical restraint</li> <li>- the individual’s behaviour necessitating the restraint</li> <li>- the reasons the restraint is necessary</li> <li>- any information given to the practitioner that informed the decision to prescribe the medication</li> <li>- the approved provider is satisfied that the practitioner obtained informed consent to prescribing the medication</li> <li>- the details of the prescription e.g. name, dosage, when it may be used</li> <li>- details of any engagement with people other than the practitioner regarding use of the restraint, or with external support services, about the assessments.</li> </ul> </li> <li>» Use the chemical restraint in accordance with the prescription provided.</li> </ul> <p><small>*Note: These requirements do not apply if it is necessary to use the restrictive practice in an emergency.</small></p>
<b>Environmental restraint</b> <b>Mechanical restraint</b> <b>Physical restraint</b> <b>Seclusion</b>	<ul style="list-style-type: none"> <li>» A medical practitioner, nurse practitioner or registered nurse with day-to-day knowledge of the individual must assess:               <ul style="list-style-type: none"> <li>- the individual as posing a risk of harm to themselves or others, and</li> <li>- whether using the restrictive practice is necessary.</li> </ul> </li> <li>» Document in the individual’s behaviour support plan:               <ul style="list-style-type: none"> <li>- the assessments</li> <li>- details of any engagement with people other than the practitioner, or with external support services, about the assessments.</li> </ul> </li> </ul> <p><small>*Note: These requirements do not apply if it is necessary to use the restrictive practice in an emergency.</small></p>

Source: *Quality of Care Principles* 2014 (Cth)