Colorado Restraint Policies Summary Information

Per your request, please find attached to this e-mail the following documents:

1) Colorado Statutory Requirements- The use of restraints and seclusion are specifically addressed in two titles of the Colorado Revised Statutes. The two most pertinent statutes related to restraint and persons with developmental disabilities are Title 27-10.5 (Colorado's developmental disabilities act) (Specifically, Section 27-10.4-114 and 155) and Title 26-20-104 (Colorado's restraint act). Both of these statutes provide the framework for the administrative rules and regulations implemented by DDD and can be accessed via the internet at http://www.michie.com/colorado/. Please note that the use of chemical restraint in an emergency is not specifically cited in Colorado's DD act, but is in the restraint act.

2) DDD Administrative Rules- The rules located at 2 CCR 503-1 16.000 include specific definitions and process requirements for the use of restraints. I have cut and pasted a document that includes these rules.

3) DDD Program Quality Standards- As part of its on-site provider certification survey process, DDD staff utilize detailed quality standards to evaluate the practices of all providers. The attached standards related to behavior support and restraints are included on pages 17-20. Please note that I have only attached the quality standards for group homes, but we have similar standards for all other services (e.g., case management, day habilitation, etc.). The standards for all direct service providers are the same regarding service and support planning.

4) DDD Memo on Prohibition of Prone Restraint- In October of 2004, DDD issued a memo prohibiting the use of prone restraints. We also convened a workgroup to review the implementation of the prohibition to determine if removal of prone restraints as a technique would place persons into danger. That workgroup did not recommend rescinding the prohibition.

Lastly, I have included a research article that I thought provided some good information regarding consensus guidelines regarding Treatment of Behavioral Emergencies that the DDD workgroup found useful and has provided a different type of framework with a medical or psychiatric approach to handling those emergencies. I don't know if such research has been completed re: behavioral emergencies for persons with developmental disabilities in community setting, but it is an interesting article in that a key focus is on what the person wants done in an emergency.

Statutory Requirements
1. 27-10.5-115. Right to humane care and treatment.

(1) Corporal punishment of persons with a developmental disability shall not be permitted.
(2) All service agencies shall prohibit mistreatment, exploitation, neglect, or abuse in any form of any person receiving services.

(3) Service agencies shall provide every person receiving services with a humane physical environment.

(4) Each person receiving services shall be attended to by qualified staff in numbers sufficient to provide appropriate services and supports.

(5) Seclusion, defined as the placement of a person receiving services alone in a closed room for the purpose of punishment, is prohibited.

(6) "Time out" procedures, defined as separation from other persons receiving services and group activities, may be employed under close and direct professional supervision, as defined by the department, and only as a technique in behavior-shaping programs. Behavior-shaping programs utilizing a "time out" procedure shall be implemented only when it incorporates a positive approach designed to result in the acquisition of adaptive behaviors. Such behavior programs shall only be implemented following the completion of a comprehensive functional analysis, when alternative nonrestrictive procedures have been proven to be ineffective, and only with the informed consent of the individual, parents, or legal guardian. Such behavior programs shall be implemented only following the review and approval process defined in rules and regulations. Behavior development programs shall be developed in conjunction with the interdisciplinary team and implemented only following review by the human rights committee. Behavior development programs involving the use of the procedure in a "time out room" are prohibited.

(7) Behavior development programs involving the use of aversive or noxious stimuli are prohibited.

(8) Physical restraint, defined as the use of manual methods intended to restrict the movement or normal functioning of a portion of an individual's body through direct contact by staff, shall be employed only when necessary to protect the person receiving services from injury to self or others. Physical restraint shall not be employed as punishment, for the convenience of staff, or as a substitute for a program of services and supports. Physical guidance or prompting techniques of short duration such as those employed in training techniques are not considered physical restraint. Physical restraint shall be applied only if alternative techniques have failed and only if such restraint imposed the least possible restriction consistent with its purpose. If physical restraint is used in an emergency or on a continuing basis its use shall be reviewed by the interdisciplinary team and the human rights committee in accordance with the rules and regulations of the department.

(9) The use of a mechanical restraint, defined as the use of mechanical devices intended to restrict the movement or normal functioning of a portion of an individual's body, is subject to
special review and oversight, as defined in rules and regulations. Use of mechanical restraints shall be applied only in an emergency if alternative techniques have failed and in conjunction with a behavior development program. Mechanical restraints shall be designed and used so as not to cause physical injury to the person receiving services and so as to cause the least possible discomfort. The use of mechanical restraints shall be reviewed by the human rights committee. The use of posey vests, straight jackets, ankle and wrist restraints, and other devices defined in rules and regulations is prohibited.

(10) A record shall be maintained of all physical injuries to any person receiving services, all incidents of mistreatment, exploitation, neglect, or abuse, and all uses of physical or mechanical restraint. All records shall be subject to review by the human rights committee.

(11) Behavior development programs shall be supervised by a developmental disabilities professional having specific knowledge and skills to develop and implement positive behavioral intervention strategies.

Source: L. 75: Entire article added, p. 914, § 1, effective July 1. L. 85: (2) and (8) amended, p. 1002, § 17, effective July 1. L. 92: Entire section R&RE, p. 1377, § 16, effective July 1.

ANNOTATION C.J.S. See 56 C.J.S., Mental Health, §§ 89-93, 97, 102.

2. Restraint Act
26-20-102. Definitions. As used in this article, unless the context otherwise requires:

(1) (a) "Agency" means:
(I) Any one of the principal departments of state government created in article 1 of title 24, C.R.S., or any division, section, unit, office, or agency within one of such principal departments of state government, except as excluded in paragraph (b) of this subsection (1);

(II) Any county, city and county, municipality, school district, or other political subdivision of the state or any department, division, section, unit, office, or agency of such county, city and county, municipality, school district, or other political subdivision of the state;

(III) Any public or private entity that has entered into a contract for services with an entity described in subparagraph (I) or (II) of this paragraph (a);

(IV) Any public or private entity licensed or certified by one of the entities described in subparagraph (I) or (II) of this paragraph (a);

(V) A person regulated pursuant to article 43 of title 12, C.R.S.

(b) "Agency" does not include:
(I) The department of corrections or any public or private entity that has entered into a contract for services with such department;

(II) Any law enforcement agency of the state or of a political subdivision of the state;

(III) A juvenile probation department or division authorized pursuant to section 19-2-204, C.R.S.;

(IV) Any county department of social services when engaged in performance of duties pursuant to part 3 of article 3 of title 19, C.R.S.

(2) "Chemical restraint" means giving an individual medication involuntarily for the purpose of restraining that individual; except that "chemical restraint" does not include the involuntary administration of medication pursuant to section 27-10-111 (4.5), C.R.S., or administration of medication for voluntary or life-saving medical procedures.

(3) "Emergency" means a serious, probable, imminent threat of bodily harm to self or others where there is the present ability to effect such bodily harm.

(4) "Mechanical restraint" means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body.

(5) "Physical restraint" means the use of bodily, physical force to involuntarily limit an individual's freedom of movement; except that "physical restraint" does not include the holding of a child by one adult for the purposes of calming or comforting the child.

(6) "Restraint" means any method or device used to involuntarily limit freedom of movement, including but not limited to bodily physical force, mechanical devices, or chemicals. "Restraint" includes a chemical restraint, a mechanical restraint, a physical restraint, and seclusion. "Restraint" does not include:

(a) The use of any form of restraint in a licensed or certified hospital when such use:

(I) Is in the context of providing medical or dental services that are provided with the consent of the individual or the individual's guardian; and

(II) Is in compliance with industry standards adopted by a nationally recognized accrediting body or the conditions of participation adopted for federal medicare and medicaid programs;

(b) The use of protective devices or adaptive devices for providing physical support, prevention of injury, or voluntary or life-saving medical procedures;
(c) The holding of an individual for less than five minutes by a staff person for protection of the individual or other persons;

(d) Placement of an inpatient or resident in his or her room for the night; or

(e) The use of time-out as may be defined by written policies, rules, or procedures of an agency.

(7) "Seclusion" means the placement of a person alone in a room from which egress is involuntarily prevented.