December 17, 2008
08-09
RE: Restraint and Seclusion

Dear Chief Executive Officer:

This letter is written to advise hospitals of the need to review and incorporate practices that comply with revised Federal/CMS requirements pertaining to patient restraint and seclusion, including the requirement to report to CMS any death occurring during the use of or following but associated with the use of restraints or seclusion.

Centers for Medicare & Medicaid Services (CMS) at http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter08-18.pdf provide regulations and guidance pertaining to current requirements for restraint and seclusion. Hospitals, with the exception of Critical Access Hospitals, should note that reporting requirements have been added by CMS that require hospitals to report deaths associated with the use of seclusion or restraint. Part 482 – CMS Conditions of Participation for Hospitals was amended to require:

Part 482.13(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.

A Hospital Restraint/Seclusion Death Report Worksheet (copy attached) has been prepared by CMS to assist hospitals in identifying the information required to submit a report to CMS. Use of the worksheet is not required and is provided as a convenience to facilities in
collecting required information. Questions regarding CMS reporting requirements or standards for restraint or seclusion may be directed to CMS Region II.

CMS Region II Contact Information:
Elizabeth Romani, Heath Insurance Specialist, Certification and Enforcement
(212) 616-2479, FAX (212) 312-8679, elizabeth.romani@cms.hhs.gov
Annette Tucker Osborne, Branch Manager, Survey and Certification
(212) 616-2485, FAX (212) 312-8685, annette.tuckerosborne@cms.hhs.gov

For State surveillance purposes, hospitals complying with federal standards would be in compliance with State requirements, with the following provisions:

- Unexpected deaths continue to be reportable to NYPORTS in accordance with New York State incident reporting requirements.
- For acute medical and surgical (non-psychiatric) care, the use of a restraint or seclusion is permitted upon the order of a licensed independent practitioner (LIP). In New York State a licensed independent practitioner (LIP) as recognized in Federal rules would include a physician, physician assistant and a nurse practitioner.
- For psychiatric patients or patients receiving behavioral health care in a unit approved by the Office of Mental Health (OMH), only a physician may order the use of a restraint or seclusion.
- Compliance with OMH rules for restraint and seclusion is required for all patients receiving care in a unit or service approved by the Office of Mental Health.
- State requirements impose an interval of at least once every 30 minutes or at a more frequent interval if directed by the ordering practitioner for monitoring the patient’s physical needs, comfort and safety.

Should you have any questions regarding the information provided, please feel free to contact this office at (518) 402-1003.

Sincerely,

Mary Ellen Hennessy
Deputy Director
Division of Primary and Acute Care Services

Attachment
A. Regional Office (RO) Contact Information:

RO Contact’s Name: ____________________________________________________________

*Date of Report to RO: ____________________________ Time: ____________________

B. Provider Information:

*Hospital Name: ____________________________ *CCN: _______________________

Address: ____________________________ City: _____________ State: _____ Zip Code: _______

Person Filing the Report: ________________________ Filer’s Phone Number: ______________

C. Patient Information:

*Name: ____________________________________ *Date of Birth: ______________________

Admitting Diagnoses: ____________________________ *Date of Admission:_________________

*Date of Death: ____________________________ Time of Death: _____________________

*Cause of Death: ____________________________

*Did the Patient Die: (check one only)

_____ While in Restraint, Seclusion, or Both

_____ Within 24 Hours of Removal of Restraint, Seclusion, or Both

_____ Within 1 Week, Where Restraint, Seclusion or Both Contributed to the Patient’s Death

*Type:  Physical Restraint ________ Seclusion __________ Drug Used as a Restraint_________

*Was a Two Point Soft Wrist Restraint used alone, without seclusion or chemical restraint or any other type of physical restraint? Yes_____ No_____

*If YES, check “02” below and stop. No further information is required.

*If NO, complete the rest of the worksheet.

*If Physical Restraint(s), Type:

____ 01 Side Rails

____ 02 Two Point, Soft Wrist

____ 03 Two Point, Hard Wrist

____ 04 Four Point, Soft Restraints

____ 05 Four Point, Hard Restraints

____ 06 Forced Medication Holds

____ 07 Therapeutic Holds

____ 08 Take-downs

____ 09 Other Physical Holds

____ 10 Enclosed Beds

____ 11 Vest Restraints

____ 12 Elbow Immobilizers

____ 13 Law Enforcement Restraints

____ 14 Other Physical Holds

If Drug Used as Restraint: *Drug Name_____________________ Dosage________________

*Mandatory field
D. Hospital-Reported Restraint/Seclusion Information:

*1. Reason(s) for Restraint/Seclusion use: (mandatory only if answer to D.4. is “Yes”) __________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

2. Circumstances Surrounding the Death: __________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

3. Restraint/Seclusion Order Details:
   a. Date & Time Restraint/Seclusion Applied: __________________________________________________________________________________________
   b. Date & Time Last Monitored: ________________________________________________________________________________________________
   *c. Total Length of Time in Restraint/Seclusion: __________________________________________________________________________________________

*4. Was restraint/seclusion used to manage violent or self-destructive behavior? Yes___ No___
   *a. If YES, was 1 hour face-to-face evaluation documented? Yes___ No___
      If NO, skip to Section E.
   *b. Date/Time of Last Face-to-face Evaluation: __________________________________________________________________________________________
   *c. Was the order renewed at appropriate intervals based on patient’s age? Yes___ No___
      Note: Orders may be renewed at the following intervals for up to 24 hours:
      > 18 years of age           every 4 hours  
      9 – 17 years of age         every 2 hours  
      < 9 years of age           every hour

*5. If simultaneous restraint and seclusion ordered, describe continuous monitoring method(s): 
________________________________________________________________________________________
________________________________________________________________________________________

E. RO Action(s):

1. *Was a survey authorized? Yes___ No___
   If YES, date SA received authorization for investigation: __________________________________________________________________________________________
   If NO, provide brief rationale: __________________________________________________________________________________________

2. *If answer to E1 is yes, date RO contacted P & A: __________________________________________________________________________________________
   (Do not contact the P&A unless a survey was authorized)

3. In the past two years, has a survey related to a restraint/seclusion death at this hospital resulted in finding condition-level patients’ rights deficiencies? Yes___ No___
   *Mandatory field