# **The use of seclusion by health care providers**

*Health Care Decision Making Act 2023*

Directive Authorising the Use of Restrictive Practices (No. 1) 2024:

I, Susan Elizabeth Fallon, Senior Practitioner under section 54 of the *Health Care Decision Making Act 2023*, issue this directive regarding the use of seclusion by health care providers in the Northern Territory.

**Part 1 Preliminary matters**

This Directive takes effect on 23 August 2024.

In this Directive:

***Health care decision*** is a decision whether to commence, continue, withdraw or withhold health care for an adult.

***Health care decision maker*** means a person determined under part 2 of the *Health Care Decision Making Act 2023* with authority under that Act to make a health care decision.

***Health care provider*** means an individual who provides health care in the Northern Territory, including:

* all health practitioners registered under the Australian Health Practitioners Regulation Agency (AHPRA)
* dietitians, massage therapists, naturopaths, social workers, speech pathologists, audiologists and audiometrists
* others providing services that meet the definition of health care in the *Health Care Decision Making Act 2023*

***Seclusion*** means the confinement of a person for any length of time alone in a room or area from which free exit is prevented or where it is implied that free exit is not permitted.

The definitions contained in the *Health Care Decision Making Act 2023* are applicable to this Directive, and apply to the extent of any inconsistency with the above definitions.

**Part 2 Applicability**

This Directive does not apply to:

* persons aged less than 18 years
* the provision of health care within registered residential aged care facilities and other settings under the Commonwealth Government’s Multi-Purpose Services (MPS) Program
* circumstances where a conflict exists with another statutory requirement under the [Traffic Regulations (NT), Schedule 3 – Australian Road Rules 1999](https://legislation.nt.gov.au/api/sitecore/Act/Word?id=12346), [Australian Road Rules](https://pcc.gov.au/uniform/Australian-Road-Rules-9June2023-bookmarked.pdf) (s265 & 266) and the [Civil Aviation Safety Regulations 1998](https://www.legislation.gov.au/F1998B00220/latest/text)
* circumstances in which statutory requirements exist for a patient who is under arrest or is in the custody of Northern Territory Police or Northern Territory Correctional Services
* registered National Disability Insurance Scheme (NDIS) service providers providing care to NDIS participants
* the brief use of seclusion in response to an imminent threat of violence to others ([refer to Directive 7)](https://health.nt.gov.au/__data/assets/word_doc/0007/1399849/7-the-emergency-use-of-restrictive-practices-in-response-to-an-imminent-threat-of-self-harm-or-violence.docx)
* any treatment under the *Mental Health and Related Services Act 1998*.

**Part 3 Ability of a health care decision maker to consent**

A health care decision maker may consent to a health care provider’s use of seclusion in a manner consistent with this Directive and section 29 of the *Health Care Decision Making Act 2023*.

**Part 4 Conditions of use**

The use of unauthorised restrictive practices or the use of restrictive practices without consent may infringe a person’s human or civil rights. Any use of a restrictive practice has the potential to cause long term physical and psychological harm, and can be traumatising for patients with a history of adversity. Seclusion should only be used as a last resort, where less restrictive interventions have been unsuccessful or are not feasible. It may constitute false imprisonment.

A health care provider may only use seclusion in a health care setting subject to the following conditions:

1. Seclusion may only be used for the management of violent or self-destructive behaviour.
2. Seclusion may only be used to the extent that is reasonably necessary under the circumstances, proportionate to the patient’s behaviour and the broader clinical context, for the shortest amount of time possible.
3. Seclusion may only be used in a manner consistent with reasonable care of the patient.
4. Health care providers must consider patient welfare, decision-making capacity, and cultural considerations prior to the use of seclusion.
5. Health care providers will ensure that any interference with a patient’s privacy and dignity is kept to the minimum necessary during the use of a restrictive practice, especially when restraint occurs in public areas and shared treatment areas or rooms.
6. The restrictive practice must be removed as soon as:
   1. the restrictive practice is no longer needed;
   2. there is any injury caused or a deterioration to the patient’s health condition or, resulting in a medical emergency response call or similar;
   3. a risk of harm arises from the restrictive practice which outweighs other risks; or
   4. there is any change in the patient’s decision-making capacity resulting in their ability to provide or deny consent.
7. Seclusion must not be used:
   1. for patients who are actively self-harming or suicidal;
   2. as a substitute for less restrictive interventions;
   3. to address inadequate levels of staffing, equipment, or facilities;
   4. as a form of punishment, discipline or threat; or
   5. for the convenience of others.

**Part 5 Safeguards**

* Health care providers must be aware of health conditions that may put the person at risk if they are being secluded. For example, a heart condition, effect of medications, choking risk.
* Whenever practical, the physical environment used for seclusion should be assessed in advance for safety risks. If necessary, the physical environment should be modified to prevent risk of injury.
* When using seclusion, health care providers should use verbal strategies, de-escalation techniques and other evidence-based strategies such as sensory modulation to help the patient safely gain control of their behaviour.
* As far as is practicable in the circumstances, health care providers should explain to the patient the reason for seclusion, what will happen during the seclusion (such as clinical observations, access to food and drink, access to the toilet), and the circumstances in which they may be removed from seclusion.
* To ensure the safety and wellbeing of the patient, seclusion should be monitored according to the health care provider’s policies and procedures for the use of seclusion.
* Additional care must be taken if seclusion is used in combination with another restrictive practice (such as mechanical restraint). The impact of using multiple restrictive practices or in combination must be the least restrictive option and proportionate to the risk of harm.