# **The use of chemical restraint by health care providers**

*Health Care Decision Making Act 2023*

Directive Authorising the Use of Restrictive Practices (No. 2) 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 chemical restraint by health care providers in the Northern Territory.

**Part 1 Preliminary matters**

This Directive takes effect on 23 August 2024.

In this Directive:

***Chemical restraint*** means the use of medication or a chemical substance for the primary purpose of influencing a person’s behaviour.

***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*

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 use of medication or a chemical substance prescribed by a medical practitioner for the purpose of treatment rather than for the primary purpose of managing a patient’s behaviour
* 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 sedation in response to an imminent threat of violence to self or 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 chemical restraint 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. Chemical restraint should only be used as a last resort, where less restrictive interventions have been unsuccessful or are not feasible. It may constitute assault or battery.

A health care provider may only use chemical restraint subject to the following conditions:

1. Chemical restraint should only be used as a last resort, where less restrictive interventions have been unsuccessful or are not feasible.
2. Chemical restraint 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. Health care providers must consider patient welfare, human rights, decision-making capacity, and cultural considerations prior to the use of chemical restraint.
4. Chemical restraint may only be used in a manner consistent with reasonable care of the patient.
5. Health care providers must 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. With the health care decision maker’s consent, brief sedation of a patient may be used to enable medical examination or assessment.
7. 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.
8. Chemical restraint must not be used:
   1. as a substitute for less restrictive interventions;
   2. to address inadequate levels of staffing, equipment, or facilities;
   3. as a form of punishment, discipline or threat; or
   4. for the convenience of others.

**Part 5 Safeguards**

* Health care providers must be aware of health conditions that may put the person at risk when chemical restraint is used. For example, tolerance, dependence and addiction to medication, dysphagia, side effects.
* Health care providers must also be aware that people with impaired capacity may be unable to communicate the side effects that they are experiencing, and that medication may mask underlying health conditions that can manifest as a behaviours of concern.
* As far as is practicable in the circumstances, health care providers should explain to the patient the reason for chemical restraint.
* To ensure the safety and wellbeing of the patient, the use of chemical restraint should be monitored according to the health care provider’s policies and procedures for the prescribing of medication.