# **Exceptional approvals for restrictive practices in hospitals**

*Health Care Decision Making Act 2023*

Directive Authorising the Use of Restrictive Practices (No. 8) 2024:

I, Susan Elizabeth Fallon, Senior Practitioner under section 9 of the *National Disability Insurance Scheme (Authorisations) Act 2019*, issue this directive regarding the circumstances under which authorisation of a restrictive practice consistent with section 29 of the *Health Care Decision Making Act 2023* is required at a hospital in the Northern Territory at short notice, and there is no other applicable Directive issued.

It is intended that this Directive should only be used in exceptional circumstances.

**Part 1 Preliminary matters**

This Directive takes effect on 1 July 2024.

In this Directive:

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

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

* all health practitioners registered under the National Registration and Accreditation Scheme
* 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 *Health Care Decision Making Act 2023* contains other definitions that may be relevant to this Directive

**Part 2 Ability of a health care decision maker to consent**

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

**Part 3 Applicability**

This Directive does not apply to:

* any scenarios covered by other current Directives
* any restrictive practice or health care provided in a setting or premises that is not a hospital
* patients 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 Servies (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
* any treatment under the *Mental Health and Related Services Act 1998*.

**Part 4 Conditions of use**

A health care provider may only use a restrictive practice not already authorised by another Directive, subject to the following conditions:

1. The restrictive practice must be expressly approved:
   1. if the patient is receiving care at a public hospital, by the Director of Medical Services
   2. if the patient is receiving care at a private hospital, by the medical practitioner who is the manager of the hospital under the Private Hospitals Act 1981
2. Approval for the restrictive practice must be documented prior to its use.
3. Approval may only be given for the restrictive practice to be used in relation to an individual patient.
4. The restrictive practice may only be approved for a period of up to 72 hours and may not be reapproved.
5. The restrictive practice should only be used as a last resort, where less restrictive interventions have been unsuccessful or are not feasible.
6. The practice 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.
7. Health care providers must consider patient welfare, human rights, decision-making capacity, and cultural considerations prior to the use of the restrictive practice.
8. The restraint may only be used in a manner consistent with reasonable care of the patient.
9. 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 the restrictive practice, especially when restraint occurs in public areas and shared treatment areas or rooms.
10. 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
    4. there is any change in the patient’s decision-making capacity resulting in their ability to provide or deny consent
11. The restrictive practice 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
    4. for the convenience of others
12. **Within 72 hours of commencement of the approval of a restrictive practice under this this Directive, the health care provider must notify the Senior Practitioner of the particulars via** [restrictive-practices.authorisation-unit@nt.gov.au](mailto:restrictive-practices.authorisation-unit@nt.gov.au)

**Part 6 Safeguards**

* Health care providers must be aware of health conditions that may put the person at risk when the restrictive practice is used.
* Health care providers must also be aware that people with impaired capacity may be unable to communicate their need or intention in a safe way.
* As far as is practicable in the circumstances, health care providers should explain to the patient the reason for the use of the restrictive practice.
* To ensure the safety and wellbeing of the patient, the use of the restrictive practice should be monitored according to the health care provider’s policies and procedures