

When can medication be used to manage an aged care resident's behaviour?

Fact Sheet: Use of Medication as a means of Chemical Restraint in Residential Aged Care in Victoria



The use of medication or a 'chemical substance' for the primary purpose of controlling or moderating the behaviour of an aged care resident (**Resident**) is known as 'chemical restraint'. Chemical restraint is also known as a 'restrictive practice' because its use restricts a person's rights or freedom of movement.

This fact sheet applies to Victorian residential aged care services, delivered under the Commonwealth's [*Aged Care Act 1997 \(Cth\)*](#). Restrictive practices are strictly regulated and aged care providers (**Providers**) are required to meet various obligations.

This fact sheet will:

- Define what is a chemical restraint;
- Explain the legal requirements that must be met by Providers to authorise and administer chemical restraint, including in emergency situations;
- Discuss who can provide consent for administering chemical restraint and the meaning of informed consent; and,
- Explain what you can do if you are concerned about the misuse of chemical restraint.

What does chemical restraint look like?

Medications that are considered chemical restraint do not include medication for diagnosed mental or physical conditions and illnesses, or end of life care. Chemical restraint is where medication is used in response to a change in the behaviour of the Resident who has been assessed as posing a risk of harm to themselves or someone else.

William, age 82, aged care resident

William has a diagnosed history of bi-polar disorder, which is managed by his long-term psychiatrist and GP. He has been prescribed Risperidone and understands the medication has been prescribed to treat his condition.

This is *not* chemical restraint. The medication is used to treat a diagnosed mental condition.

June, age 84, aged care resident

June was diagnosed with dementia 5 years ago and takes Aricept. Since moving into an aged care home, June has become agitated and aggressive towards staff and other residents. A medical practitioner, after following all the legal requirements, prescribes Diazepam to relax June.

This *is* chemical restraint. Although June's behaviours are related to her dementia, Diazepam has been prescribed for the primary purpose of influencing her behaviour to prevent harm.

What are the Provider's obligations in the use of chemical restraint?

The Provider must be satisfied that:

- Chemical restraint is only used as a last resort to prevent harm to the Resident or other persons, and after consideration of the likely impact on the Resident;
- Alternative strategies are considered and used to the extent possible, and documented in the Resident's Behaviour Support Plan;
- The restraint is only used to the extent it is necessary and in proportion to the risk of harm to the Resident or other persons; is in the least restrictive form, and for the shortest time necessary to prevent harm;
- The restraint complies with the Resident's Behaviour Support Plan (and other relevant care plans), the [Aged Care Quality Standards](#), and is consistent with the [Charter of Aged Care Rights](#).

The Provider must obtain informed consent to the use of the chemical restraint, except in an emergency (see below).

The Provider must be satisfied that a medical practitioner or nurse practitioner has;

1. Assessed the Resident as posing a risk of harm to themselves or any other person;
2. Assessed that the use of the chemical restraint is necessary;
3. Prescribed medication for the purpose of restraint; and
4. Obtained informed consent to the prescribing of the medication.

The Provider must document the following in the Resident's Behaviour Support Plan:

- The Resident's behaviour and assessments relevant to the use of chemical restraint, and the alternative strategies that have been considered or used.
- The practitioner's decision to use the chemical restraint and their reasons.
- Information provided to the practitioner (if any) that informed the decision to prescribe the medication.
- That the practitioner obtained informed consent.
- Details of the prescribed medication, including its name, dosage and when it may be used.
- Details of any engagement with persons other than the practitioner in relation to the use or assessment of the chemical restraint (for example, dementia support specialists).

Responsibilities of the Provider while chemical restraint is being used:

- The use of the medication is monitored, reviewed and documented in the Resident's Behaviour Support Plan.
- The Resident is monitored for signs of distress or harm, side effects, changes in mood or behaviour, including ability to engage in activities and to maintain independent function (to the extent possible).
- Consider if appropriate alternative strategies can be used, and the restrictive practice reduced or stopped.
- Provide information about the effects and use of the chemical restraint to the prescribing practitioner.

How is chemical restraint used in an emergency?

Chemical restraint can be used in an emergency as necessary, such as in a dangerous event that is unanticipated and requires immediate action. It does not require informed consent. The chemical restraint must be in the least restrictive form, for the shortest period possible, and documented. The Provider must inform the Restrictive Practices Substitute Decision Maker as soon as practicable after the event, and document the Resident's behaviour, the alternatives considered or used, why the restraint was necessary, and the care provided.

Who can consent to chemical restraint on behalf of a Resident?

- A decision to use chemical restraint requires informed consent by the individual receiving the restraint, or if they lack capacity, by a substitute decision maker.
- A Resident is presumed to have capacity to make their own decisions.
- Determining a person's capacity can be difficult, it may be appropriate to obtain an assessment by a suitably qualified medical practitioner.
- If a Resident does not have capacity to provide informed consent to the use of chemical restraint, consent must be obtained from a substitute decision maker.
- The laws of Victoria determine who can be a substitute decision maker, however, it is unclear if a person who has been appointed to make decisions on health or personal matters can make decisions regarding restrictive practices. As an interim measure, the Commonwealth has introduced a hierarchy of Restrictive Practices Substitute Decision Makers (**RPSDMs**) who can provide informed consent for the use of chemical restraint on behalf a Resident.

The order of the hierarchy is:

1. A Restrictive Practices Nominee who has been nominated in writing by the Resident.
2. A partner, who has a close continuing relationship with the Resident.
3. A relative or friend who was the unpaid carer of the Resident immediately prior to entering care, who has a personal interest in the welfare of the Resident and a close continuing relationship.
4. A relative or friend who was not the carer but has a personal interest in the welfare of the Resident and a close continuing relationship.
5. A Medical Treatment Authority – an individual or body appointed in writing that can give informed consent to the provision of medical treatment (however described).

The Victorian Government has announced a new RPSDM model may be introduced by 1 July 2025.

What is ‘informed consent’?

A Resident or RPSDM must provide informed consent to the use of a chemical restraint. This requires the Provider to explain the reason for the use of the chemical restraint, the risks and benefits, the timeframe and intended outcomes, and any alternative options. In addition, consent should be provided independently, free from duress, and involve the opportunity to review and ask questions.

Consent can be refused or withdrawn and is required each time a chemical restraint is proposed.

What can you do if you or your loved one is being chemically restrained unlawfully?

- Make a complaint to the Provider, referencing the [Quality of Care Principles](#) which outline the requirements of applying restrictive practices.
- Make a complaint to the [Aged Care Quality and Safety Commission](#).
- Contact [ACJ](#) if you are unsure of your rights for a free legal consultation.

Legal remedies for unlawful chemical restraint

Unauthorised use of restraint may give rise to civil or criminal actions, and be considered assault or false imprisonment, in severe cases.

A person may seek an injunction from the courts to prevent the restraint from happening or continuing.

Contact Aged Care Justice if you would like a free legal consultation:

Email: info@agedcarejustice.org.au

Phone: (03) 9016 3248

Website: www.agedcarejustice.org.au



DISCLAIMER: This fact sheet is for general information purposes only and does not represent legal advice. As it is not intended to be comprehensive in relation to the topic, other inclusions or exemptions may apply. The law and policy referred to in this document was in force on the 08/10/2024. Scenarios on first page are fictional.