

DENIAL OF RIGHTS REPORTING

FREQUENTLY ASKED QUESTIONS ADDRESS REPORTING TO THE COMMISSION ON BEHAVIORAL HEALTH

Which facilities are required to report denial of rights pursuant to NRS 433.534?

All facilities as defined in [NRS 433.461](#) must report denial of rights. This includes:

1. Division of Public and Behavioral Health units or subunits for the care, treatment and training of consumers;
2. Division of Child and Family Services units or subunits pursuant to [NRS Chapter 433B](#); and
3. All hospitals (includes all departments, units, offsite emergency rooms, and other offsite locations under the hospital's license) and Community Triage Centers.

How is a consumer defined?

For reporting purposes, a consumer is defined as a patient who is held involuntarily pursuant to [NRS 433A.150](#).

What is reportable as a denial of rights?

Seclusion and the use of physical, mechanical or chemical restraints is reportable to the Commission on Behavioral Health.

How is seclusion and restraints defined?

“Seclusion” means the involuntary confinement of a patient alone in a room or area from which the patient is physically prevented from leaving. Seclusion is not just confining a patient to an area, but involuntarily confining the patient alone in a room or area where the patient is physically prevented from leaving. If a patient is restricted to a room alone and staff are physically intervening to prevent the patient from leaving the room or giving the perception that threatens the patient with physical intervention if the patient attempts to leave the room, the room is considered locked, whether the door is actually locked or not. In this situation, the patient is being secluded. A patient physically restrained alone in an unlocked room does not constitute seclusion. Confinement on a locked unit or ward where the patient is with others does not constitute seclusion.

Note: For the purposes of reporting pursuant to [NRS 433.534](#), the Centers for Medicare and Medicaid Services (CMS) definition and interpretative guidelines in CFR 482.13(e)(1)(ii) found under Tag A-0162 of the CMS State Operations Manual, Appendix A for hospitals, is being used for the definition of seclusion.

“Physical restraint” ([NRS 433.5476](#)) means the use of physical contact to limit a person's movement or hold a person immobile.

“Mechanical restraint” ([NRS 433.547](#)) means the use of devices, including, without limitation, mittens, straps, restraint chairs, handcuffs, belly chains and four-point restraints to limit a person’s movement or hold a person immobile.

“Chemical restraint” ([NRS 433.5456](#)) means the administration of drugs to a person for the specific and exclusive purpose of controlling an acute or episodic behavior that places the person or others at a risk of harm when less restrictive alternative intervention techniques have failed to limit or control the behavior. The term does not include the administration of drugs prescribed by a physician, physician assistant or advanced practice registered nurse as standard treatment for the mental or physical condition of the person.

Should I report the use of medications for psychiatric emergency as a chemical restraint?

This will depend on the purpose of medication administration. Please refer to the definition of a chemical restraint above.

Does a report need to be submitted on all individuals secluded or restrained?

No, a report only needs to be submitted when a consumer is secluded or restrained. For reporting purposes, a consumer is defined as a patient who is held involuntarily pursuant to [NRS 433A.150](#).

Does this apply to children or the disabled?

This applies to all individuals that meet the definition of a consumer (see answer above).

Examples include:

- A report must be submitted for a disabled individual or teenager who is held involuntarily pursuant to [NRS 433A.150](#) and is secluded or restrained.
- A report does not have to be submitted for a disabled individual or teenager who is secluded or restrained but is not being held involuntarily pursuant to [NRS 433A.150](#).
- A report does not have to be submitted for an individual that is being held involuntarily pursuant to [NRS 433A.150](#) but is not secluded or restrained.

What information should be included when reporting seclusion or physical, mechanical, or chemical restraints to the Commission on Behavioral Health?

There are no statutory or regulatory requirements outlining the specific information that must be reported to the Commission on Behavioral Health as it relates to reporting denial of rights pursuant to [NRS 433.534](#). It is being requested that all hospitals and community triage centers utilize the Seclusion and Restraint Form, as described below. This allows for the consistent gathering of information.

Is there a form that can be used by hospitals and community triage centers to report a denial of rights?

Yes, the [Seclusion and Restraint Form can be found online here](#).

What actions can be taken by the Commission on Behavioral Health as it relates to the denial of rights pursuant to NRS 433.534?

The Commission:

- (a) Shall receive reports of and may investigate apparent violations of the rights guaranteed by this chapter;
- (b) May act to resolve disputes relating to apparent violations;
- (c) May act on behalf of consumers to obtain remedies for any apparent violations; and
- (d) Shall otherwise endeavor to safeguard the rights guaranteed by this chapter.

Is the information submitted to the Commission on Behavioral Health pursuant to NRS 433.534 confidential?

Yes, pursuant to [NRS 433.534\(2\)](#) such a report is confidential and must not be disclosed. A copy of the report must be sent to the Commission on Behavioral Health.

How do I submit the report?

As this is confidential information, it is important to submit this information in a secured manner such as via secured, encrypted email or via United States mail.

When and how do I submit the required report pursuant to NRS 433.534?

As soon as a consumer held involuntarily pursuant to [NRS 433A.150](#) is secluded or restrained, a report pursuant to [NRS 433.534](#) must be submitted. As soon as possible, after the occurrence of such an event, complete the Seclusion and Restraint Form, and submit it, as instructed on the form, in a secured manner as noted in the previous question.