

not including devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or any other methods that involves the physical holding of a resident for the purpose of conducting routine physical examinations or tests or to protect the resident from falling out of bed or to permit the resident to participate in activities without the risk of physical harm to the resident (such term does not include a physical escort); and

(B) a drug or medication that is used as a restraint to control behavior or restrict the resident's freedom of movement that is not a standard treatment for the resident's medical or psychiatric condition.

**(2) Seclusion**

The term "seclusion" means a behavior control technique involving locked isolation. Such term does not include a time out.

**(3) Physical escort**

The term "physical escort" means the temporary touching or holding of the hand, wrist, arm, shoulder or back for the purpose of inducing a resident who is acting out to walk to a safe location.

**(4) Time out**

The term "time out" means a behavior management technique that is part of an approved treatment program and may involve the separation of the resident from the group, in a non-locked setting, for the purpose of calming. Time out is not seclusion.

(July 1, 1944, ch. 373, title V, §591, as added Pub. L. 106-310, div. B, title XXXII, §3207, Oct. 17, 2000, 114 Stat. 1195.)

**§ 290ii-1. Reporting requirement**

**(a) In general**

Each facility to which the Protection and Advocacy for Mentally Ill Individuals Act of 1986<sup>1</sup> [42 U.S.C. 10801 et seq.] applies shall notify the appropriate agency, as determined by the Secretary, of each death that occurs at each such facility while a patient is restrained or in seclusion, of each death occurring within 24 hours after the patient has been removed from restraints and seclusion, or where it is reasonable to assume that a patient's death is a result of such seclusion or restraint. A notification under this section shall include the name of the resident and shall be provided not later than 7 days after the date of the death of the individual involved.

**(b) Facility**

In this section, the term "facility" has the meaning given the term "facilities" in section 102(3) of the Protection and Advocacy for Mentally Ill Individuals Act of 1986<sup>1</sup> (42 U.S.C. 10802(3)).

(July 1, 1944, ch. 373, title V, §592, as added Pub. L. 106-310, div. B, title XXXII, §3207, Oct. 17, 2000, 114 Stat. 1196.)

REFERENCES IN TEXT

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in text, was Pub. L.

<sup>1</sup> See References in Text note below.

99-319, May 23, 1986, 100 Stat. 478, as amended. Pub. L. 99-319 was renamed the Protection and Advocacy for Individuals with Mental Illness Act by Pub. L. 106-310, div. B, title XXXII, §3206(a), Oct. 17, 2000, 114 Stat. 1193, and is classified generally to chapter 114 (§10801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of this title and Tables.

**§ 290ii-2. Regulations and enforcement**

**(a) Training**

Not later than 1 year after October 17, 2000, the Secretary, after consultation with appropriate State and local protection and advocacy organizations, physicians, facilities, and other health care professionals and patients, shall promulgate regulations that require facilities to which the Protection and Advocacy for Mentally Ill Individuals Act of 1986<sup>1</sup> (42 U.S.C. 10801 et seq.) applies, to meet the requirements of subsection (b) of this section.

**(b) Requirements**

The regulations promulgated under subsection (a) of this section shall require that—

(1) facilities described in subsection (a) of this section ensure that there is an adequate number of qualified professional and supportive staff to evaluate patients, formulate written individualized, comprehensive treatment plans, and to provide active treatment measures;

(2) appropriate training be provided for the staff of such facilities in the use of restraints and any alternatives to the use of restraints; and

(3) such facilities provide complete and accurate notification of deaths, as required under section 290ii-1(a) of this title.

**(c) Enforcement**

A facility to which this part applies that fails to comply with any requirement of this part, including a failure to provide appropriate training, shall not be eligible for participation in any program supported in whole or in part by funds appropriated to any Federal department or agency.

(July 1, 1944, ch. 373, title V, §593, as added Pub. L. 106-310, div. B, title XXXII, §3207, Oct. 17, 2000, 114 Stat. 1196.)

REFERENCES IN TEXT

The Protection and Advocacy for Mentally Ill Individuals Act of 1986, referred to in subsec. (a), was Pub. L. 99-319, May 23, 1986, 100 Stat. 478, as amended. Pub. L. 99-319 was renamed the Protection and Advocacy for Individuals with Mental Illness Act by Pub. L. 106-310, div. B, title XXXII, §3206(a), Oct. 17, 2000, 114 Stat. 1193, and is classified generally to chapter 114 (§10801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 10801 of this title and Tables.

<sup>1</sup> See References in Text note below.