

15 June 2017

World Elder Abuse Awareness Day: Call to ban unlawful restraints in aged care

Public Advocate Mary Burgess today called on the federal government to end the unregulated use of restraints and other restrictive practices in aged care facilities.

Ms Burgess said restraints were sometimes needed to manage challenging behaviour in older people with dementia and mental health issues, but could also be used as a means of coercion, punishment, staff convenience or reprisal.

“Elderly residents are being locked in their rooms, tied up, strapped to beds, drugged with powerful sedatives and monitored by cameras on a daily basis, sometimes with little regard for their personal welfare or human rights,” she said.

“Excessive and inappropriate use of restraints is an insidious form of elder abuse and can also be devastating for a resident’s loved ones, particularly when they only find out after the damage has been done and it’s too late to do anything.

“Aged care staff are at serious risk too because they are working in a professional minefield without any clear statutory basis or legal protection when using restraints.

“This is a national problem and it requires a national response to protect aged care residents from abuse and aged care staff from potential criminal charges such as unlawful imprisonment, assault and even manslaughter.”

Ms Burgess said more than 400,000 Australians had dementia, with many living in aged care facilities where chronic understaffing increased the risk of inappropriate restraint.

“Restrictive practices can be both degrading and dangerous with evidence pointing to psychological and physical harm, including death,” she said. (refer below)

“In many cases, they can be avoided altogether through proper assessment and personal plans that provide better care and support for residents.”

Ms Burgess called for a national framework under the federal *Aged Care Act 1997* to regulate restrictive practices and prohibit their use except as a last resort subject to strong safeguards, greater transparency and independent oversight.

“Australia already has a national framework for reducing and eliminating restrictive practices in the disability service sector and there is a pressing need to establish similar protocols for aged care services to prevent elder abuse,” she said.

“Where restrictive practices are necessary to minimise the risk of harm to a resident or others, they should be the least intrusive for the shortest time, properly documented and open to scrutiny.”

The Public Advocate today released a paper on [Legal frameworks for the use of restrictive practices in residential aged care](#), which will be sent to Commonwealth Aged Care Minister Ken Wyatt seeking urgent legislative reform.

Ms Burgess welcomed the Australian Law Reform Commission's final report for the Elder Abuse Inquiry, tabled yesterday in Canberra, which also recommended the regulation of restrictive practices in aged care and many other worthwhile measures to protect older Australians.

She called on the federal government for a clear commitment to introducing the necessary legislation as a matter of urgency.

Further information

*Common forms of restrictive practice include **detention** (eg. locking a person in a room indefinitely); **seclusion** (eg. locking a person in a room for a limited period of time); **physical restraint** (eg. clasp ing a person's hands or feet to stop them from moving); **mechanical restraint** (eg. tying a person to a chair or bed); **chemical restraint** (eg. giving a person sedatives); and **electronic restraint** (eg. tracking bracelets, camera surveillance, restrictions on media devices).*

Woman dies of heart attack while strapped to toilet

An elderly woman suffered a heart attack and was found dead restrained to a toilet. She had been left strapped on a toilet without any observation and was not found for two hours.

The family of the woman was not told of these circumstances, with the son saying that he had been told that she had only been on the toilet for 10 minutes when she died and there was no mention of restraints.

It was known that the woman's health had been deteriorating and she had been seen by a doctor on the morning of her death.

<http://www.abc.net.au/news/2011-08-17/seymour-health/2843252>

Plover v McIndoe (2000) 2 VR 385

An elderly man in aged care who had a number of health issues including cardiac problems, blindness and dementia was given suppositories and placed on a commode next to his bed.

He was restrained to the commode by a tie rug around his abdomen, with the ends wrapped and tied to the rail of his bed. He was left without supervision in this state for approximately twenty minutes.

When he was finally checked up on, he was found behind the curtains, lying on the floor with the rug tie caught around his neck. He had died from asphyxiation due to being strangled from his restraint.

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