

1 **PROHIBITION OF COERCIVE RESTRAINT THERAPY**

2 2003 GENERAL SESSION

3 STATE OF UTAH

4 **This act modifies the Mental Health Professional Licensing Act. The act restricts the use,**
5 **practice, or application of restraint to certain circumstances.**

6 This act affects sections of Utah Code Annotated 1953 as follows:

7 ENACTS:

8 **58-60-117**, Utah Code Annotated 1953

9 *Be it enacted by the Legislature of the state of Utah:*

10 Section 1. Section **58-60-117** is enacted to read:

11 **58-60-117. Coercive restraint therapy.**

12 (1)(a) As used in this section, "coercive restraint" means personal, physical, or mechanical
13 restraint, including:

14 (i) the application of physical force without the use of any device, for the purpose of
15 restraining the movement of the patient's body; or

16 (ii) any manual method or physical or mechanical device, material, or equipment attached
17 to or adjacent to the patient's body that the patient cannot easily remove that restricts freedom of
18 movement or normal access to one's body.

19 (b) "Coercive restraint" does not include briefly holding, without undue force, a patient,
20 in order to calm the patient, or holding a patient's hand to escort the patient safely from one area
21 to another.

22 (2) Except as otherwise provided in Subsection (3), a licensed mental health therapist or
23 any other unlicensed individual may not:

24 (a) practice, use, or apply coercive restraint on or to a patient; or

25 (b) direct, prescribe, or instruct that coercive restraint be used or applied on or to a patient.

26 (3) Subsection (2) does not apply:

27 (a) to a hospital that is subject to Requirements for States and Long Term Care Facilities,
28 42 C.F.R. Subchapter G, Part 482;

29 (b) to a residential treatment facility that is subject to Requirements for States and Long
30 Term Care Facilities, 42 C.F.R. Subchapter G, Part 483; or

31 (c) when a mental health therapist determines that coercive restraint is reasonably needed
32 to:

- 33 (i) protect the patient or another person from what reasonably appears to be imminent
- 34 physical injury; or
- 35 (ii) protect property from what reasonably appears to be imminent, substantial damage.
- 36 (4) All use of coercive restraint by a mental health therapist shall be documented in the
- 37 patient's file or chart.
- 38 (5) Any restraint permitted under Subsection (3)(c) must be terminated when conditions
- 39 described in Subsection (3)(c) no longer exist or may be remediated by less restrictive means.

Legislative Review Note
as of 7-17-02 8:56 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel