PHOTOCOPY
PRESERVATION

Groups Call For Reform In Use Of Restraints

Mental Health Providers React To Reports Of 142 Deaths In Facilities

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ERIC M. WEISS
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Organizations representing the nation's mental health care industry acknowledged Friday they need to study regulations and take action to reduce the number of restraint- related deaths in their facilities.

Also Friday, the nation's leading health-care accreditation agency said it will alert its 18,000 facilities to a nationwide pattern of restraint deaths and suggest strategies to prevent them.

The organizations — representing hospitals, psychiatrists and mental health care facilities — were short on specifics, saying only that they would study the issue in expectation of congressional hearings next year.

The actions came in the wake of a Courant series reporting that 142 people died while or shortly after being restrained or secluded in psychiatric hospitals, mental retardation facilities or group homes over the past 10 years.

But because many cases go unreported, the number of these deaths may be 10 times higher, according to a statistical estimate commissioned by the newspaper.

U.S. Sen. Joseph I. Lieberman, D-Conn., has called for congressional hearings on the issue.

In a letter to the editor appearing in today's Courant, leaders of the American Hospital Association, the American Psychiatric Association and the National Association of Psychiatric Health Systems said they will take steps to prevent these deaths.

"We were deeply saddened by the unfortunate deaths described in your recent series," the letter said. "As associations representing behavioral health care organizations and professionals, we agree that prevention of such tragedies is an absolute priority."

The letter said the organizations would review existing regulations and oversight to ensure they safeguard patients.

Rick Wade, a senior vice president of the American Hospital Association, said one problem is that current restraint guidelines lack useful detail.

"The standards are vaguely worded and general in nature," Wade said, referring to guidelines issued by the Joint Commission on the Accreditation of Healthcare Organizations. "We need good, clear standards that don't leave any doubts about how these things should be handled."

A Joint Commission spokeswoman said the industry-funded accreditation organization is constantly upgrading its standards and will continue to do so.

The organization is also working on an "action alert" to be sent to most of the nation's health-care organizations warning them of the dangers of restraint-related deaths.

The alert, scheduled to go out by the end of the year, will include suggestions on how to avoid these types of deaths. A Joint Commission spokeswoman said the proposed solutions have not been finalized.

Ways to improve the system

Based on interviews with health care experts, workers, advocates, patients, hospital administrators and government officials, The Courant's investigation has highlighted ways to make restraint use less dangerous. They include:

Better and more frequent training. Staff should be trained regularly in nonphysical methods to calm patients, and in safe techniques to restrain patients.

Universal CPR training. All hands-on staff should be trained in the use of CPR, which not only enables workers to save lives but to recognize the patient's signs of distress.

Uniform national standards. National standards should be set on how and when to use restraints. Minimum staff training should be required in their use.

Monitoring patients in restraint. Patients in physical restraints should be monitored by a staffer not involved in the restraint. Patients in mechanical restraints should be monitored constantly or at frequent, regular intervals.

Elimination of bad techniques. Restraints that are found to be dangerous, such as face-down floor holds and mouth coverings, should be banned nationwide.

Universal reporting of restraint deaths. Restraint-related deaths and injuries should be reported to a national clearinghouse so lessons can be shared and potentially deadly errors averted.

Research. Professional research needs to be done in this largely unexplored area. In particular, the issue of children being restrained warrants concerted study.

Thorough investigation. All sudden, unexpected deaths such as those following a restraint should be thoroughly investigated by medical examiners and police.

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A Powerful Industry Blocks Reform

In California, Governor Vetoes Proposed Restraint Regulations

By ERIC M. WEISS
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Six years ago, Zouhair Jadeed was found dead at a California hospital after being shackled to a mattress for seven hours and 45 minutes.

California state Sen. Dan McCorquodale, a Modesto Democrat, was outraged.

There had to be some additional, common-sense protections for patients who are tied up, he thought. After researching the issue, McCorquodale, chairman of the Senate's mental health panel, introduced SB 895.

He thought it was a simple start that would save lives. The bill would have required a doctor to approve and renew the use of a restraint, forced staff to check in on patients every 15 minutes when in restraints, and required staff to conduct a physical exam the next day.

"There was no question in anyone's mind that this was reasonable," McCorquodale said.

Then the storm hit: fierce opposition by interest groups representing hospitals, doctors and psychiatrists.

Lobbyists swarmed. Issue papers swirled. Money was spent.

"They came up with all sorts of what-ifs," said McCorquodale, a former elementary school teacher. "They said it would bankrupt them."

And they said it was unnecessary.

"It would have been an inefficient use of resources, overly restrictive and unrealistic," said Dorel Harms, a spokeswoman for the California Healthcare Association. She said most California facilities already take most of the precautions, and more government regulation was unneeded.

After pitched battles in both houses, the bill was passed by the Democrat-controlled Senate and Assembly.

WILSON

But Republican Gov. Pete Wilson vetoed the bill on Sept. 30, 1994, calling it "overly prescriptive in nature."

"Such detail," he said, "is better left to the regulatory process."

Wilson, up for reelection just five weeks later, raised $263,977 from political action committees representing hospitals, doctors and psychiatrists during the campaign, according to the political journal Capitol Weekly.

A top Wilson aide said any suggestion that the veto was linked to campaign contributions was outrageous.

"The governor has a fundamental and philosophical problem with setting health mandates and care through the political process instead of through doctors," said Sean Walsh, Wilson's deputy chief of staff. "These decisions should be made through medical science, not political science."

Colette Hughes, a death investigator with California Protection and Advocacy Inc., which strongly supported the bill, said the battle wasn't a total loss. She said the bill's requirements became the de facto standard of practice — in some California facilities.

McCorquodale, who has since left public service, took away a lasting lesson.

"Health operators are a very strong force in every community," McCorquodale said. "This was the cost they put on these lives."

1993-94 donations to Gov. Wilson

DATE	AMOUNT	ORGANIZATION
Sep. 28, 1993-Oct. 26, 1994	$110,717	**California Hospitals PAC**
March 4, 1993-Oct. 24, 1994	$84,750	**California Medical PAC**
Jan. 28, 1993-Dec. 9 1994	$66,860	**California Association of Health Facilities PAC**
April 14, 1993-June 22, 1994	$1,650	**California Psychiatric PAC**

SOURCE: Capitol Weekly

PHOTOCOPY PRESERVATION

Hour after hour in restraints, a life wanes

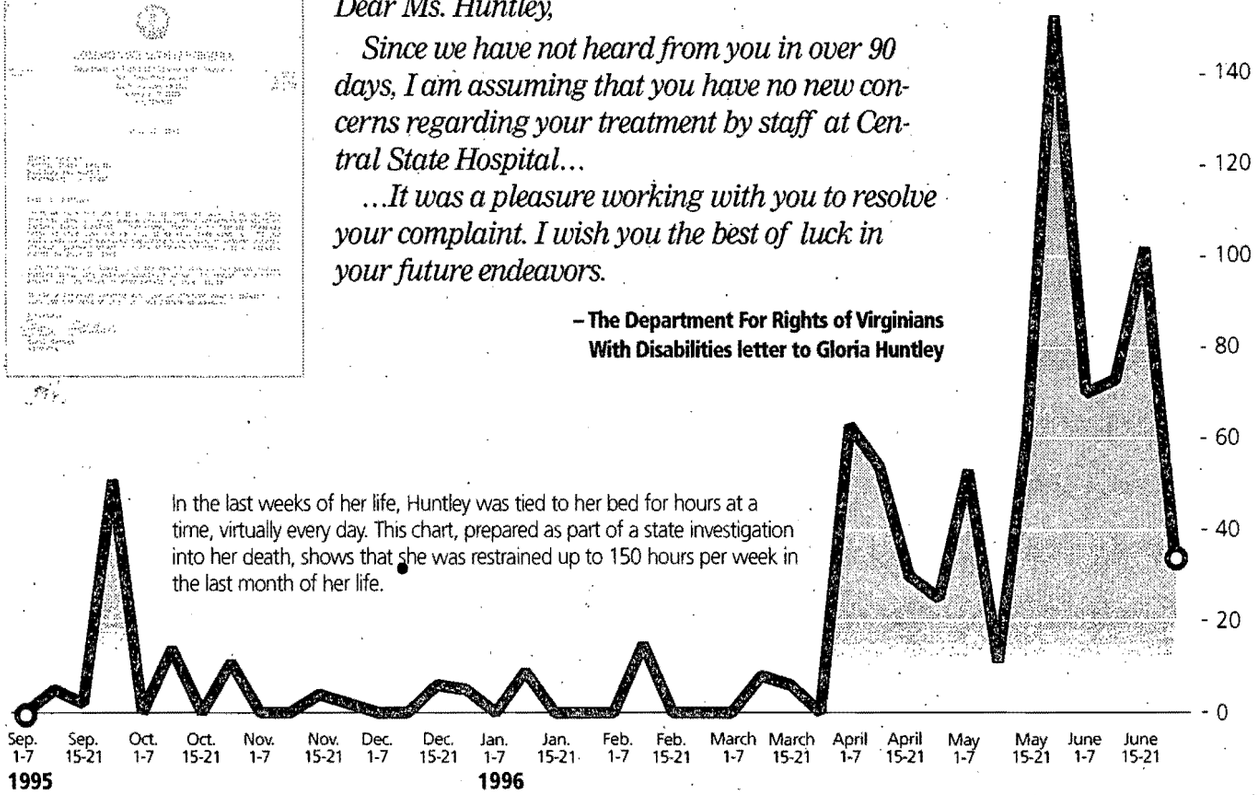
Gloria Huntley sought help from the people charged with protecting her rights. The Department For Rights of Virginians With Disabilities responded — three weeks after her death.

Dear Ms. Huntley,

Since we have not heard from you in over 90 days, I am assuming that you have no new concerns regarding your treatment by staff at Central State Hospital...

...It was a pleasure working with you to resolve your complaint. I wish you the best of luck in your future endeavors.

– The Department For Rights of Virginians With Disabilities letter to Gloria Huntley



In the last weeks of her life, Huntley was tied to her bed for hours at a time, virtually every day. This chart, prepared as part of a state investigation into her death, shows that she was restrained up to 150 hours per week in the last month of her life.

tion "Every hospital tries to protect itself."

"The incentive is to settle with the family, fix it internally and move on," said Dr. Thomas Garthwaite, deputy undersecretary of health for the U.S. Department of Veterans Affairs.

Many states, including Connecticut, have laws that shield discussions among doctors that explore what went wrong. The laws are designed to promote candid discussions, but the solutions often don't leave the closed hospital conference room.

Garthwaite and other experts said hospitals need to share problems and solutions to prevent deadly errors from being repeated. Just a year ago, the VA began a comprehensive system to track all deaths and mistakes.

But a plan by the Joint Commission to do the same all across the nation has been stymied so far by the powerful American Hospital

Getting an A: Central's report card

The Joint Commission gave Central State Hospital a score of 92 in June 1996. The next day, Gloria Huntley died under conditions later called inhumane. When the Joint Commission did a follow-up review nine months later, it changed Central's score. This time, Central got a 94. Its high score that year was typical: Nearly three-quarters of hospitals received a grade of 90 or better.

Central received the Joint Commission's highest score in both patient rights and patient care in the June 1996 review. Here, too, the vast majority of hospitals get the highest score.

OVERALL EVALUATION SCORE	92%
	PCT. OF HOSPITALS
90 TO 100	72
80 TO 89	26
70 TO 79	2
60 TO 69	0
0 TO 59	0
UPDATED OVERALL EVALUATION SCORE	**94%**

SCORING

1 Substantial compliance
2 Significant compliance
3 Partial compliance
4 Minimal compliance
5 Noncompliance

PERFORMANCE AREAS	FULL SURVEY PERFORMANCE AREA SCORES	NATIONAL COMPARATIVE DATA PERCENT OF HOSPITALS THAT RECEIVED A SCORE OF:				
PATIENT RIGHTS AND ETHICS		1	2	3	4	5

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Mental Health File

THE WHITE HOUSE

OFFICE OF THE VICE PRESIDENT

FOR IMMEDIATE RELEASE
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STATEMENT BY TIPPER GORE ON
MENTAL HEALTH VICTORIES IN BUDGET AGREEMENT

"I am extremely pleased that the final budget agreement is one that represents good news for people with mental illnesses. The budget includes substantial new increases to improve mental health services through a critical $275 million increase in the Substance Abuse Block Grant at the Substance Abuse and Mental Health Services Administration (SAMHSA). The Community Mental Health Services Block Grant will contain $288 million in mental health spending in FY1999, funding for Projects for Assistance in Transition from Homelessness (PATH) increased to a total of $26 million. These increases will provide much needed treatment, counseling and services for thousands of people who are homeless or suffering from mental illnesses."

"The Administration's FY1999 budget included a $2 billion increase in research funds for the National Institutes of Health (NIH) -- the largest-ever. In the last decade, scientists have made historic progress identifying and treating mental illnesses, improving the lives of millions of Americans. This new investment will help scientists explore important new breakthroughs in biomedical research which could revolutionize the way medical experts understand, treat, and prevent mental illness."

"However, there is still much work to do. Unfortunately, Republicans have blocked critical legislation this year that would improve health care for people with mental illnesses, such as a strong and enforceable patients' bill of rights. The Administration has continually called for passage of a patients' bill of rights that would contain critical protections for people with mental illnesses, including: access to specialists, continuity of care so to prevent abrupt changes in critical treatment when an employer changes health plan, and a process to assure patients can appeal decisions made by HMOs.

"We are also disappointed that Congressional Republicans rejected the bipartisan Jeffords-Kennedy bill that enables people with disabilities to go back to work by providing an option to buy into Medicaid and Medicare, as well as other pro-work initiatives. The President endorsed this critical legislation at the commemoration of the Americans with Disabilities Act last July and the Administration fought to include this during budget negotiations. Despite Republican efforts to deny people with disabilities equal opportunity, we will continue our efforts to advocate that people with disabilities have the opportunity to work -- and the critical health insurance that makes work possible."

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CLINTON/GORE ADMINISTRATION WINS NEW MENTAL HEALTH VICTORIES IN THE BUDGET BUT MUCH REMAINS TO BE DONE

The final budget is clearly a win for Clinton/Gore Administration and for people with mental illnesses. However, there is still much work to do. Unfortunately, Congress is going home without passing critical legislation that would improve health care for people with mental illnesses.

New Victories in the Budget For People With Mental Illness.

- **Substantial New Increases to Improve Substance Abuse Prevention and Treatment.** The Congress has responded to the Clinton/Gore Administration's proposal to substantially increase substance abuse prevention and treatment activities. Congress has approved a critical $275 million increase in the Substance Abuse Block Grant at the Substance Abuse and Mental Health Services Administration (SAMHSA). With this increase, over $1.5 billion will be allocated to the block grant in FY1999 enabling tens of thousands of high-risk youth, pregnant women, and other underserved Americans to get much-needed drug treatment and prevention services.

- **New Investments in Mental Health Services at SAMHSA.** The budget included a new $13 million increase in the Community Mental Health Services Block Grant. With this increase, the block grant will contain $288 million in mental health spending in FY1999. These services provide much needed treatment, counseling and services for thousands of people with mental illnesses.

- **Special Emphasis on Children's Mental Health.** On the heels of the White House Conference on School Safety, Congress has agreed to appropriate as part of the Center for Mental Health Services increase, a special $40 million program to initiate new outreach efforts to children, youth and schools and communities to address mental health problems arising from violence. Moreover, it seeks ways to stem the violence before it occurs. This funding builds on resources now available to design, implement and evaluate community-based systems of care that help children with serious emotional disturbances and their families.

- **Expansion of National Institutes of Health for Biomedical Research.** The Administration's FY1999 budget included the largest-ever dollar increase in funds for the National Institutes of Health (NIH). The final budget includes almost $2 billion expansion of NIH research funding --a 14-percent increase. In the last decade, scientists have made historic progress identifying and treating mental illnesses, improving the lives of millions of Americans. This new investment will help scientists explore important new breakthroughs in biomedical research and have been which could revolutionize the way medical experts understand, treat, and prevent mental illness.

Unfortunately, the Congressional Leadership Has Left an Unfinished Agenda By Not Passing Critical Legislation That Would Improve Quality Health Care for People With Mental Health Illnesses.

- **Failing to Pass a Patients' Bill of Rights That Would Assure Quality Health Care for People with Mental Illness.** The Clinton/Gore Administration has repeatedly urged the Congress to pass a strong, enforceable patients' bill of rights that would assure Americans the quality health care they need. Congressional Republicans killed this year's effort to pass a patients' bill of rights that contain critical protections for people with mental illnesses, including: access to specialists, continuity of care so to prevent abrupt changes in critical treatment when an employer changes health plan, and a fair independent appeals process to assure that individuals can appeal decisions made by HMOs.

- **Failing to Pass A Work Incentives Bill for People with Disabilities.** At the commemoration of the Americans with Disabilities Act last July, the President endorsed the bipartisan Jeffords-Kennedy bill that enables people with disabilities to go back to work by providing an option to buy into Medicaid and Medicare, as well as other pro-work initiatives. This bill was on the list of top Administration priorities in the final budget negotiations, but rejected by Republicans. Clinton/Gore Administration will continue to fight to give people with disabilities the opportunity to work – including the critical health insurance that makes work possible.

TIPPER GORE ANNOUNCES NEW REGULATIONS TO PREVENT INDIVIDUALS WITH MENTAL ILLNESS FROM UNNECESSARY USE OF PHYSICAL RESTRAINTS

June 25, 1999

Today, Tipper Gore, the President's mental health advisor, joined House and Senate mental health leaders to unveil new regulations that would take a strong step towards eliminating the inappropriate and often harmful use of physical restraints on individuals with mental illness. These new regulations would prevent the use of physical restraints on patients unless a physician certified that the use of the restraints was necessary to ensure the physical safety of the patient or of other patients, providing critical new protections to individuals with mental illness receiving care in all hospitals participating in the Medicare program, as well as program and intermediate care facilities for the mentally retarded and institutions of mental disease participating in the Medicaid program. Mrs. Gore also announced that the Department of Health and Human Services would work to extend these same protections to residential care facilities for children and other providers participating in the Medicaid program by the end of this year.

HUNDREDS OF CHILDREN HAVE DIED BECAUSE OF THE INAPPROPRIATE USE OF RESTRAINTS. Children are most likely to be injured or killed when medical personnel restrain them because the restraint techniques used are designed to subdue adults rather than children, who are smaller and lighter. In addition, restraints are often used as a routine method of discipline, rather than as a last resort. Studies indicate that 142 deaths across 30 states over the last decade were caused by the inappropriate use of restraints; 33 percent of the victims were suffocated as medical personnel struggled to restrain them; and more then 26 percent of those killed were children under 17 - a rate that's nearly twice their proportion in mental health institutions.

NEW REGULATIONS PROVIDE CRITICAL NEW PATIENT PROTECTIONS TO THIS VULNERABLE POPULATION. The new regulations Mrs. Gore is announcing today take a strong first step towards:

- **Eliminating the use of restraints except as a last resort.** These new regulations will prohibit the use of physical restraints in acute care, psychiatric, rehabilitation, long term care, and children's hospitals participating in the Medicare program, program and intermediate care facilities for the mentally retarded, and institutions of mental disease participating in the Medicaid program except when patients are in danger or endangering the health and safety of others and only with the written order of a physician. The regulations also set limits for each order for physical restraints or seclusion based on a patient's age, and require staff to be educated and trained in the safe use of seclusion and restraints, as well as the techniques for handling behavior, symptoms, and situations that traditionally were treated through the use of restraints and seclusion. Currently, restraints are sometimes used by facility staff as a way to discipline patients who are difficult to control.

- **New reporting requirements to hold providers accountable.** These new regulations require providers to inform HCFA of any death that occurs when it is reasonable to assume that the death was caused by the use restraints or seclusion. Any facility who is found to be out of compliance with the new regulations will be prohibited from participating in the Medicare and Medicaid programs. Currently, federal funding comprises approximately X percent of the $Y billion spent on services in mental health facilities, including private, state and local hospitals.

- **New efforts to educate patients and their families about their rights.** The new regulations Mrs. Gore unveiled today require hospitals and other providers to notify patients about their right to be free from restraints and seclusion. Each patient must be informed of his or her right to request or refuse treatment and to be involved in the development and implementation of his or her plan of care. It also includes patients' right to formulate advance directives and the right to expect that the hospitals will comply with these directives. Currently, many patients are never informed of these basic rights when they enter the hospital for treatment.

- **New commitment to extend these protections to all providers covered by the Medicaid program.** Mrs. Gore also announced that the Department of Health and Human Services would work to extend these same protections to residential care facilities for children and other providers participating in the Medicaid program by the end of this year.

APPLAUDED LEGISLATION THAT SEEKS TO EXPAND ON THESE PROTECTIONS. When announcing these new regulations, Mrs. Gore congratulated Senators Lieberman, Dodd, Harkin, Spector, and Representatives Degette and DeLauro on their efforts to pass legislation regulating the use of physical restraints in mental health facilities nationwide and to require the strict reporting of deaths and serious injuries caused by restraints.

BUILDING ON A LONGSTANDING COMMITMENT TO PROVIDING SAFE AND EFFECTIVE MENTAL HEALTH SERVICES. In addition to working to protect the rights of individuals with mental illness, the Clinton-Gore Administration is working to improve mental health treatment, enhance prevention and bolster research. Accomplishments include:

Holding the First Ever White House Conference on Mental Health. At the June 7th White House Conference on mental health issues, chaired by the President's Mental Health Advisor Tipper Gore, the Clinton-Gore Administration unveiled unprecedented measures to improve mental health, including: ensuring that the Federal Employees Health Benefits Plan (FEHBP) -- the nation's largest private insurer - implements full mental health and substance abuse parity; launching national school safety training program for teachers and education personnel; launching a $7.3 million landmark study by the National Institute of Mental Health (NIMH) on the nature of mental illness and treatment nationwide and to help guide strategies and policy; launching a pilot program to help people with mental illness get the quality treatment they need to return to work; and reaching out to vulnerable homeless Americans with mental illnesses.

Supporting Mental Health Parity. The Clinton-Gore Administration advocated for and signed into law the 1996 Mental Health Parity Act (MHPA). In December 1997, the Administration issued regulations to take steps to ending discrimination in health insurance on the basis of mental illness under MHPA. As of January 1998, the law began requiring health plans to provide the same annual and lifetime spending caps for mental health benefits as they do for medical and surgical benefits. The Departments of Labor (DOL), Treasury, and HHS have also established coordination and referral systems at the federal and state levels to coordinate investigations of alleged practices by health insurance issuers and to ensure that workers and their families are not unjustly denied any protections provided under MHPA.

Improving Prevention and Treatment for People with Mental Illnesses. In January, Mrs. Gore, unveiled the Administration's plan to increase the Mental Health Services Block Grants by an unprecedented $70 million (or 24 percent), totaling $359 million for fiscal year 2000. The block grant provides state and territorial governments with resources to support comprehensive community-based systems of care to serve people with serious mental illness and their families. Additional funding will enable states to target particularly-hard-to-reach adults and children with severe mental illnesses.

Fighting to Pass a Strong, Enforceable Patients' Bill of Rights. President Clinton and Vice President Gore called on the Congress to pass a strong, enforceable Patients' Bill of Rights that assures Americans the quality health care they need. Among its protections, the Administration's bill ensures that consumers cannot be discriminated against because of mental disability as they seek health care services, are guaranteed access to specialists, and a fair process to appeal their health plans' decisions. In addition, HHS currently supports consumers by providing grants to develop programs that advocate for the legal rights of people with mental illness and to investigate incidents of abuse and neglect in facilities that care for such individuals.