



New Mexico
Hospital Association

Regulatory Advisory

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"NMHA works with others to improve the health status of the citizens of NM"

PREGNANT PRISONER RESTRAINTS & SUPERVISION

Background

Senate Bill 423 was enacted during the 2009 legislative session and took effect on July 1, 2009. The new regulation places strict limitations on the use of restraints on pregnant prisoners by correctional facilities. (There are about 600 female inmates in the NM prison system and somewhat more in jails.) The statutory citation is Section 33-1-4.2 NMSA1978.

"A. An adult or juvenile correctional facility, detention center or local jail shall use the **least restrictive restraints necessary** when the facility has actual or constructive knowledge that an inmate is in the second or third trimester of pregnancy. **No restraints of any kind shall be used on an inmate who is in labor, delivering her baby or recuperating from the delivery** unless there are compelling grounds to believe that the inmate presents:

- (1) an immediate and serious threat of harm to herself, staff or others; or
- (2) a substantial flight risk and cannot be reasonably contained by other means.

B. If an inmate who is in labor or who is delivering her baby is restrained, only the least restrictive restraints necessary to ensure safety and security shall be used."

We are working in conjunction with the Governor's Women's Health Office to facilitate the broad understanding of this new statute.

Suggestions for hospitals

There are several actions hospitals can take to promote awareness of the statute and to assure good relations with correctional facilities.

1. Distribute the statute to appropriate hospital personnel, including legal counsel, risk management, supervisors and staff employees caring for pregnant prisoners.
2. Review your policies and operating procedures on restraints.
3. Work with county officials and jail administrators to assure mutual understanding of the statute. The NM Association of Counties is training their "detention affiliate" about the statute on Oct. 14 and is providing a model policy to the 28 county jails in the state.
4. For further information, contact:

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