



Dear Mr.  
Chairman of the Board of the Hospital  
*Magalhães Lemos, E.P.E.*  
Rua Professor Álvaro Rodrigues  
4149-003 *Porto*

*Your Ref.*

*Your Communication*

*Our Ref.*

*Visit no. 11-2014*

RECOMMENDATION NO. 4/2015/NPM

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I

Under the provision contained in the article 19, paragraph b), of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, I recommend that measures should be taken, namely:

- a) Consolidation of the guidelines for the use of containment measures in accordance with the guidelines of the General Director of Health, as well as with the internal procedure<sup>1</sup>;
- b) Implementation of an independent record of restraints, as foreseen in the model attached to the internal procedure;

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<sup>1</sup> See «Pro.026.hml», about physical restrictions and/or chemistry/isolation, approved on June 5, 2013.



- c) Identification of the different therapeutic solutions that should be considered chemical constraints and, therefore, subject to the applicable procedures and guarantees;
- d) Use of the «isolation rooms» in strict observance of the applicable requirements of exceptionality and emergency.

## II

This position followed a visit held to the Hospital *Magalhães Lemos, E.P.E.* by a team of the National Preventive Mechanism (NPM)<sup>2</sup>, in the past November 7 of 2014.

In accordance with the scope of intervention of the NPM<sup>3</sup>, several organizational aspects and practices in use for users subject to internment were assessed under the compulsive Act of Mental Health<sup>4</sup>, namely in which regards use of constraints and medication protocols in place when no physician is present. The physical space for newly admitted patients was also assessed, with the purpose of analyzing the conditions of privacy there.

On the onset of this visit, a meeting was held with the clinical director, which provided several clarifications on the characterization of the hospital and practices relating to involuntary admissions. The particular gravity of this measure seemed properly recognized by clinical professionals who collaboratively work to replace it with involuntary outpatient treatment, whenever the conditions allow.

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<sup>2</sup> In Portugal, the quality of NPM was attributed to the Ombudsman, through the Resolution of the Council of Ministers no. 32/2013 of May 20.

<sup>3</sup> The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the purpose of which is to establish a system of regular visits by independent international and national bodies to places where persons are deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment, was ratified by Portugal in 2012, through Decree no. 167/2012 of the President of the Republic of December 13.

<sup>4</sup> Law no. 36/98, of July 24, as amended by law no. 101/99, of July 26.



In particular regarding the use of restraints on patients at risk of inflicting injury to themselves or others, the grasp on aspects covered by formal parameterization was considered to be a barely enough. As this is one aspect that involves high potential for violation of the rights of patients, we call for consolidation and robust awareness in accordance with best practice of international and national guidelines, in particular those emanating from the General Direction of Health and the internal procedure of the institution.

The absence of an autonomous specific record, to identify and characterize the restraints used made it difficult, on the day of the visit, to obtain data (quantitative and qualitative) on the use of restraints. These were later collected and shared. This is an opportunity for improvement, identified by the NPM, for the implementation of a specific record, independent and cumulative with the clinical process of patients, as now recommended.

Notwithstanding the mentioned need to strengthen the guidelines on the use of restraints in patients, the practice in Hospital *Magalhães Lemos, E.P.E.*, such as described by clinical and nursing professionals contacted, shows that there is a culture of respect for the dignity and rights of the patients, limiting its use essentially with motives of security to the patient and third parties.

As for the prescription and administration of medication in the absence of the physician (designated SOS medication), this follows a protocol authorization, evident in the patient's clinical process. The administration of tranquilizer medication, in this context, is not necessarily perceived or qualified by professionals as a measure of restraint.

If it is admissible the use of protocols for administration of certain drugs, the rule is not universally valid for all medicine. There is a need to distinguish different situations (*v.g.*, antipsychotics, sedatives, tranquilizers) in order to ensure prescription and administration according to best practices and guarantees that



medication constitutes a chemical constraint is understood to be a constraint by all professionals. The clear definition of the drugs which, associated with other conditions, corresponds to a constraint would strengthen, in my opinion, the guarantees of the patients, and also the safety and liability of the professionals who manage them, especially if they are not physicians.

After the visit of the facilities for newly admitted patients (intensive intervention service), a general assessment concluded that they presented good hygiene conditions, lighting and overall good maintenance conditions. The privacy is sufficiently ensured, both in the wards and the bathrooms.

During the visit, two patients were in the «isolation room». One of the patient's situation was particularly unsettling, by how disproportionate this grievous constraint measure seemed, considering the apparently unaggressive behaviour. According to the staff, this is a measure used due to the lack of alternative to ensure proper surveillance (the patient will require permanent monitoring, and, temporarily, there were not enough technicians), this was expected to be overcome in a short period of time, and absolutely prevented from future.

The day, in which the visit occurred, the two «isolation rooms» had been occupied for more than twenty four hours. The patients confined there have limited visual contact with the outside by means of a small acrylic rectangle on the metal door of the room, which abuts the corridor where you can't always find a health care professional. Patients are, however observed regularly, in particular through the surveillance cameras, which transmit the image to the nursing room. Also found to be disturbing, in what regards the treatment conditions and the respect of the dignity of patients, was the unmitigated noise that one of the patients constantly emitted by beating, with a regular rhythm, with his heel in the metallic door of the room.



It was an especially distressing situation, since the patient occupying the contiguous room, also in isolation, suffered from a psychotic disorder which made him believe that he was in a war zone. From a therapeutic perspective this was referred not be a suitable solution. The justification offered, invoked the limitations of the physical spaces and an alternative area of the hospital would be activated for isolation, to prevent this. Anyway, the recommendation to intensify efforts to minimize the use of isolation and, where necessary, its use for the shortest period of time possible, can prevent most of the adverse effects which are produced inevitably by the insufficient soundproofing of the accommodations.

In short, the assessment was positive, especially regarding the policy for minimizing the impact of the involuntary treatment situations, the underlying culture of respect for the rights and privacy of patients and good maintenance state of the areas visited.

Opportunities for improvement have been identified regarding the strengthening and the application of the policy on the use of restraints, the creation of an independent record on the use of restraints, including and clarifying the concept of chemical restraint. Lastly I recommend reducing the use of isolation and the shortening the length of this measure to the minimum possible to further strengthen the rights and dignity of the patients in Hospital *Magalhães Lemos*.

The Portuguese Ombudsman  
National Preventive Mechanism

*José de Faria Costa*